

16-10-2020
Subha
Item no. 38
Bail allowed

IN THE HIGH COURT AT CALCUTTA
Criminal Miscellaneous Jurisdiction

C.R.M 8028 of 2020

Salauddin @ Salauddin Sk and anr.

-VS-

The State of West Bengal (Via video conference)

In Re: An application for bail under Section 439 Cr.P.C in connection with Jalangi P.S. Case No.48 of 2020 dated 30-01-2010 under sections 302/34 of the Indian Penal Code and Sections 25/27 of the Arms Act.

Mr. Tapodip Gupta ...for the petitioners.

Mr. Pradipta Ganguly ... for the State.

The advocate-on-record for the petitioners undertake to affirm and properly stamp the petition as per the rules within one month of resumption of normal functioning of the court. The petition is taken up through video-conference on the basis of such undertaking.

We are very sorry to observe that learned counsel in the panel of the State are working seriously and to the best of their ability but are not properly appreciating the law which is relevant and applicable in bail and anticipatory bail matters. Ordinarily, no person can be detained without the authority of law.(See Articles 20 to 22 of the Constitution of India). An accused may be kept in custody without trial for the purpose of investigation.

Normally, in considering an application for bail, the gravity of the offence, whether the accused if released would interfere with witnesses, tamper with evidence, flee from justice or commit further

crimes if let off, are the cardinal principles which the court considers to grant bail or to refuse it.

We notice that in all cases, the panel counsel are trying to hold a mini criminal trial in court, trying to convince the court that the crime is very grievous in nature or the accused is an undesirable person and that he should be in custody till conclusion of the trial. The relevant factors are neither available in their instructions or in their submissions. They are unable to explain, in most cases, why the accused should be further detained, after completion of investigation and submission of chargesheet.

In those circumstances, it has become very difficult for this court, in many cases, to consider the application for bail for want of proper assistance.

This is a case under Section 302 of the Indian Penal Code. The death took place on 29th January, 2020. The petitioner is in custody for about eight and half months. Charge-sheet was submitted on 30th May, 2020. Charge has not been framed as yet. Learned counsel for the State makes strong submissions before this court that the petitioner should be held in custody till the conclusion of the trial. There is nothing on record to show that he has interfered or will interfere with the witnesses, tamper with evidence or flee from justice.

In those circumstances, we allow the application for bail of the petitioners.

Accordingly, the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees ten thousand only) each together with personal release bond of equivalent value to the

satisfaction of the appropriate court, Murshidabad. The petitioners must, however, attend on every date fixed for trial; and in the event of failing to do so, the trial court shall be at liberty to cancel the bail of the petitioners without any reference to the court.

Accordingly, the application for bail, being CRM No.8028 of 2020 is disposed of.

The learned Registrar General shall forward a copy of this order to the Chief Secretary of the State.

[Md. Nizamuddin, J]

[I. P. Mukerji, J]