

01.12.2020

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CRM 8954 of 2020
(Via Video Conference)

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with Dumdum Police Station Case No. 127 of 2001 dated the 17th Day of April, 2001 under Sections 302/34 of the Indian Penal Code.

And

In the matter of: **Bapi Dam**

....Petitioner.

Mr. Kaustav Bagchi

...for the petitioner.

Mr. Swapan Banerjee

Mr. Suman De

...for the State.

This petitioner was absconding for nearly 16 years before he surrendered. It is now the petitioner's contention that since a co-accused has been acquitted, there is nothing to proceed against the petitioner.

According to the petitioner, the case of the prosecution is that one Labu and Kochi had shot the victim and the only case against the petitioner is that he had taken the victim to the place of occurrence.

The matter was adjourned on November 24, 2020 for a copy of the order of acquittal to be produced by the State. The short order of acquittal records that since there was no corroborative evidence against Kochi, he was liable to be acquitted. The State says that the trial has commenced and it is proceeding against the petitioner and he should not be released at this stage. Another accused is also being tried while in custody.

It is true that, prima facie, the statements against the petitioner herein are that he had called the victim away for a game of carrom and lured him to the side of the Kali Temple where Labu and Kochi may have shot him. However, if three persons conspire to commit a particular act and the act is carried out, it matters little as to which of the three players played what part in the action where there was a joint motive to carry out the act. Secondly, this petitioner's conduct in absconding for 16 years does not permit any discretion to be exercised in his favour.

The trial should be completed as expeditiously as possible. The prayer for bail is rejected at this stage.

CRM 8954 of 2020 is disposed of.

(Sanjib Banerjee, J.)

(Aniruddha Roy, J.)