

27.11.2020.
Item No. 12
(Allowed)

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(Via Video Conference)

C.R.M. 9363 of 2020

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed on 17.11.2020 in connection with Binpur P.S. Case No. 58 of 2020 dated 24.07.2020 under Sections 147/148/149/448/325/326/354B/379 of the Indian Penal Code and Sections 25/27 of the Arms Act;

And

In the matter of : **Rajesh Mondal and another.**

... petitioners.

Mr. Soumyajit Das Mahapatra.

...For the petitioners.

Mr. Saswata Gopal Mukherjee, Ld. PP,

Mr. Swapan Banerjee,

Mr. Suman De.

...For the State.

The learned Advocate-on-Record of the petitioners undertakes to affirm and stamp the petition/application as per the Rules within forty-eight hours of resumption of the normal functioning of the Court. Subject to such undertaking, the application is taken up for hearing through Video Conference.

The petitioners have been apprehended in connection with Binpur Police Station Case No. 58 of 2020 dated 24.07.2020 under Sections 147/148/149/448/325/326/354B/379 of the Indian Penal Code and Sections 25/27 of the Arms Act.

The learned Advocate for the petitioners submits that the petitioners have been falsely implicated in connection with the instant case because of the political rivalry and, in fact, the petitioners were not involved in any way to the injury allegedly suffered by the victim. It is further stated that the charge-sheet has already been submitted and,

therefore, there is no necessity to keep the petitioners in custody any more.

The learned Public Prosecutor vehemently opposes the prayer for bail. It is submitted that the statement of the victim as well as his wife would reveal that the petitioners were actively involved in commission of the said offence and the complicity cannot be ruled out. It is further submitted that the photographs taken at the hospital would also reveal the grievous nature of injury suffered by the victim.

In order to countenance that the petitioner no. 1 is also involved in various other criminal offences, a list has been produced before us and according to the learned Public Prosecutor, if the petitioners are released on bail, there is every likelihood of tampering with the evidence as well as committing the identical and similar offences.

After hearing the respective Counsels, we had an occasion to peruse the case diary. We have not only perused the injury report but also the statement recorded by the victim under Section 161 of the Code of Criminal Procedure as well as the statement of the wife of the victim recorded under Section 164 of the Code of Criminal Procedure. The Doctor, who treated the victim, recorded its findings in the injury report annexed to the application and the therapeutic treatment by prescribing the medicine. We have further perused the medical treatment extended to the victim and the findings recorded by the medical practitioner thereupon.

Though the learned Advocate for the petitioners showed his ignorance to the lodging of the criminal cases against the petitioners for committing the identical and similar offences at an earlier point of time but we noticed that the petitioners have been enlarged on bail in connection therewith. Furthermore, the charge-sheet has already been submitted in the instant case and considering the nature of allegations including the alleged injury suffered by the victim and the fact that the name of the petitioners transpires in course of

investigation, we do not feel that further custodial interrogation of the petitioners are necessary in the instant case. However, we appreciate the agony and apprehension shown by the learned Public Prosecutor that if the petitioners remain with the said territorial jurisdiction it may turn out to be counterproductive.

Since we are inclined to grant the petitioners a privilege of bail, we feel that the conditions are also required to be attached thereto.

Accordingly, the petitioners, namely, **Rajesh Mondal and Shyamal Das**, shall be released on bail upon furnishing a Bond of Rs. 10,000/- each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Jhargram, subject to the conditions that the petitioners shall meet the Inspector in-Charge of Binpur Police Station twice in a day, one in the morning and another in the evening, and shall not leave the jurisdiction without prior permission of the concerned Court.

The application for bail being CRM 9363 of 2020 is **allowed**.

(Harish Tandon, J.)

(Hiranmay Bhattacharyya, J.)