

06.09.2021

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Ct. No 29

sdas

rejected

C.R.M. 766 of 2021
(via video conference)

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Shakespear Sarani Police Station Case No. 19 of 2002 dated 22.01.2002 under Sections 121/121A/120B/302/307/333/427/467/468/471 of the Indian Penal Code and Sections 25(1B)(a)/27 of the Arms Act.

And

In Re : Hasan Imam @ Hasnu @ Zubair Ahmed @ Asif Hossain @
Arif Hasan petitioner

Mr. Sekhar Kumar Basu
Mr. Syed Imam
Mr. Antarikhya Basu
Ms. Madhumita Basak
Mr. Pratik Ghosh

... for the petitioner

Mr. Neguive Ahmed, learned A.P.P.
Ms. Amita Gaur
Md. Anwar Hossain

... for the State

Petitioner seeks bail.

Learned senior advocate appearing for the petitioner submits that the police case is in respect of an incident of January 22, 2002 which occurred near the American Trade Center. The petitioner was arrested on October 3, 2016. In the interregnum, the police filed a charge-sheet against fifteen persons. Nine persons were placed on trial. Out of nine persons, seven persons were convicted and sentenced to death on April 26, 2005. On appeal, death sentence in respect of two persons were confirmed and in respect of three others death sentence was commuted to lesser punishment. Two appeals were filed

before the Hon'ble Supreme Court. Such appeals are pending. He submits that the name of the petitioner was taken by one Binod Kumar Roy. He draws the attention of the Court to the statement of the petitioner recorded under Section 164 of the Code of Criminal Procedure on November 2, 2016. He submits that, it transpires from such statement that the petitioner was not in Kolkata when the incident occurred. In fact, the petitioner never visited Kolkata. He draws attention of the Court to the earlier order of rejection of bail. He submits that at that time the petitioner was not supplied with the relevant documents by the prosecution. He, therefore, seeks bail.

Learned Additional Public Prosecutor appearing for the State submits that Mr. Binod Kumar Roy is the witness in respect of the criminal case. He opposes the prayer for grant of bail. He submits that the petitioner was identified as an accused. Supplementary charge-sheet was submitted.

In respect of an incident of January 22, 2002, the petitioner was arrested on October 3, 2016. In respect of such incident, the police submitted a charge-sheet against fifteen persons. The petitioner is one of the persons who was named in the Charge Sheet. The petitioner could not be arrested till October 3, 2016. The trial, however, resulted in a conviction on April 26, 2005 against seven persons who were sentenced to death. Two persons were acquitted. The persons who were sentenced to death preferred an appeal with the High Court. The High Court confirmed the death sentence in respect of two persons and reduced the quantum of punishment in respect of the others. The Court is informed that two separate appeals are

pending before the Hon'ble Supreme Court against such order of the High Court.

The statement made by the petitioner under Section 164 of the Code of Criminal Procedure was recorded on November 2, 2016. The petitioner approached the High Court by an application being CRM 12694 of 2017 which was rejected on January, 29, 2018. Therefore, at the time of making application for grant of bail as also on the date of its dismissal, the statement of the petitioner recorded under Section 164 of the Code of Criminal Procedure was on record. Prayer for bail was rejected by the High Court on the ground, inter alia, that the petitioner was successful in evading the arrest for sufficient period of time.

Considering the facts and circumstances of the case and considering the fact that the earlier application for grant of bail was rejected on January 29, 2018 for the reasons as recorded therein, we are unable to grant bail to the petitioner.

Accordingly, prayer for bail is rejected and the application being CRM 766 of 2021 is dismissed.

(Debangsu Basak, J.)

(Ananda Kumar Mukherjee, J.)

