

26.03.2021

Item No.07

Ct.No.28

Subha

Allowed

C.R.M. 1208 of 2021

(Via Video Conference)

In Re : An Application for bail under Section 439 of the Code of Criminal Procedure.

And

In the matter of : **Pan Kisto Nunia @ Pran Krishna Nonia @ Prankisto Noniya & Ors.** ... Petitioners.

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

... For the Petitioners.

Mr. Madhusudan Sur
Mr. Dipankar Pramanick

... For the State.

The present application under Section 439 of the code of Criminal Procedure has been preferred by the petitioners in Sessions case no.18 of 2021 arising out of Andal Police Station Case No. 320 of 2020 dated 12-11-2020 under Sections 147/148/149/302/307/326/201/120B of the Indian Penal Code and Sections 25(1B)(a)/27/35 of the Arms Act.

Mr. Basu, learned senior advocate appearing for the petitioners submits that the petitioners have been falsely

implicated in the instant case and they are in custody since 12th November, 2020. According to learned senior advocate appearing for the petitioners, the incident which occurred resulted in death of one of the victim namely *Dharambir* and injuries were sustained by two persons, namely Mahesh Ram Nonia and Pannalal Nonia.

Additionally, learned senior advocate appearing for the petitioners submits that there are statements, recorded under Section 164 of the Code of Criminal Procedure in respect of the different witnesses as also the injured victim, where the names of the accused persons have been discreetly implicated/incorporated in the instant case. On any condition the learned senior advocate appearing for the petitioners prays for bail of the present petitioners.

Mr. Sur, learned Additional Public Prosecutor appearing for the State opposes the prayer for bail of the present petitioners and refers to the statements of the witnesses (injured witnesses namely, (Goutam Kumar Nunia, Punam Devi, Baishakhi Devi, Bishnudeo Nunia, Kishto Nunia, Urmila Devi, Panna Nunia, Mahesh Ram, Pratap Kumar, Suresh Bhuiya @ Manoj.)

According to learned advocate for the State, each of the petitioners were actively involved in the commission of the alleged offence and having regard to the manner in which the incident has taken place, their release on bail would jeopardize the trial of the case.

We have perused the case diary including the statements of the witnesses in respect of whom attention has been drawn by the learned advocate appearing for the State.

Having regard to the gravity of the offence, nature of injuries and the incriminating materials appearing against the present petitioners, namely, 1. *Pan Kisto Nunia @ Pran Krishna Nunia @Prankisto Noniya*, 2. *Dharmendr Nunia @ Dharmendar Nonia*, 3. *Bidout Kumar Nonia @ Bidut Nunia @ Bidyut Kumar Nonia*, 4. *Shibshankar Nunia @ Shib Shankar Nunia*, we are not inclined to release them on bail.

Accordingly, the prayer for *bail* of the present petitioner nos. 1,2,3 & 4 are *rejected* at this stage.

So far as the petitioner nos.5,6,7 and 8 are concerned, we find that their names appeared in the statement of Pratap Kumar and Suresh Bhuiya @ Manoj which were recorded one and half month after the date of incident.

Having regard to the same, we are inclined to release the present petitioner nos. 5, 6, 7 & 8 on bail.

Therefore, the accused/petitioners, namely, **5. Raju Kumar 6. Kundan Kumar Nonia @ Kundan Nonia 7. Prem Kumar Nonia @ Prem Kumar Nunia & 8. Krishna Sada** be released on bail upon furnishing a bond of Rs.20,000/(Rupees twenty Thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial

Magistrate, Durgapur and subject to condition that the said petitioners shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

The petitioner nos. 5, 6, 7 & 8 shall stay outside the jurisdiction of the Asansol Durgapur Police Commissionerate and shall meet with the Officer-in-Charge, Andal Police Station once a week until further orders.

The petitioner nos. 5, 6, 7 & 8 shall make themselves available before the learned trial court on each and every date of hearing.

In the event they fail to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel their bail automatically without reference to this court.

With the aforesaid observations, the application for bail being CRM 1208 of 2021 is, accordingly, disposed of.

(Tapabrata Chakraborty, J.)

(Tirthankar Ghosh, J.)