

11.06.2021

Sl. No.26

Court No.30

BM

CRM 1257 of 2021

(Via Video Conference)

In Re: An application for bail under Section 439 of the Code of Criminal Procedure, 1973 filed on 29th January, 2021 in connection with Dum Dum Police Station case No.8/2020 dated 03.01.2020 pending before the learned Additional Chief Judicial Magistrate, Barrackpore, North 24 Parganas.

And

In the matter of: Kartick Samaddar

... Petitioner

Mr. Debasis Kar

Mr. Subhajit Chowdhury ... for the petitioner

Mr. Sudip Ghosh

Mr. Bitasok Banerjee

Mr. A. K. Datta ... for the State

The petitioner is seeking release on bail on the ground that he is into judicial custody for more than 500 days and that he was arrested on the basis of a reliable source on 08.01.2020 as depicted from the observation made in the charge sheet itself. It is pointed out that the charge sheet has been submitted on 03.04.2020 and custodial trial is not required. Further the petitioner is aged 19 years old and two other accused persons similarly circumstanced had been admitted on bail, out of these two, the Juvenile Justice Board granted bail to Bishal Yadav and accused Samrat Naskar @ Jeet was admitted on bail by the order dated 02.11.2020 by the Vacation Judge A. K. Nandy, District Judge, Barasat. As submitted by Mr. Ghosh, learned counsel for the State the case is based on last seen

together theory and that can be judged at the time of evidence to be adduced by the prosecution.

The complaint which gave rise to the case and the submission of the charge sheet on investigation is to the effect that on 31.12.2019 in the night the son of the defacto complainant Pallab Hazari has left his house with his friend Bishal Yadav and others but did not return so the case was registered on the basis of complaint of the mother of the deceased Pallab Hazari.

The petitioner is seeking release mainly on the ground on parity with the contention that the principal accused Bishal Yadav being juvenile has been admitted on bail.

This petitioner is not juvenile and he cannot seek parity with the said Bishal Yadav yet our attention was invited to the said order passed by the Vacation Judge, A. K. Nandy, District Judge, Barasat which reflects that Samrat Naskar @ Jeet was admitted on bail on consideration of his custody since 05.01.2020 in connection with the case being Dum Dum Police Station case No.8/2020 dated 03.01.2020 under Sections 302/201 of the Indian Penal Code.

Our attention is also invited to various pages of the case diary including page 145 containing statement of the petitioner, page 146 contains statement of Bishal Yadav and the statement of Bishal Yadav are also found at page 148 relating to the disclosure statement based on which seizure was made from the house of the petitioner which is reflected from seizure list at page 153 of the case diary.

Our attention is also invited to pages 265 and 266 to submit that the theory of last seen together as the circumstantial evidence

prima facie is reflected therefrom but in our view it is the subject matter of trial on evidence to come to a definite conclusion as to whether the circumstantial evidence would lead the Trial Court to hold the petitioner guilty of the charge beyond reasonable shadow of doubt.

Ergo, considering the tender age of the petitioner and his incarceration in judicial custody for more than 500 days, we are inclined to admit him on bail on parity with other accused. Accordingly, the petitioner be admitted on bail on furnishing bond of Rs.20,000/- with two sureties of like amount each one of whom has to be local subject to the satisfaction of the learned Additional Chief Judicial Magistrate, Barrackpore on condition that the petitioner would attend every date of trial and in the event of any default for no reason whatsoever the trial court shall be at liberty to cancel the bail and take him into custody without any reference to this Court.

CRM 1257 of 2021 is disposed of.

(Saugata Bhattacharyya, J.)

(Shivakant Prasad ,J.)