

24.06.2021
Item no.30
Court No.28
AB

(Bail Allowed)

(Via Video Conference)

CRM 2129 of 2021

In Re: An application for Bail under Section 439 of the Code of Criminal Procedure filed on 24.02.2021 in connection with Shantipur Police Station Case No.386 of 2020 Dated 1.9.2020 under Sections 341/326/307/302/34 of the Indian Penal Code read with Sections 25/27 of the Arms Act

and

In the matter of : Samir Das & Others

.....Petitioners

Mr. Prabir Majumdar, Advocate,
Mr. S. Majumdar, Advocatefor the Petitioners.

Mr. Saibal Bapuli, Ld. APP,
Mr. Arijit Ganguly, Advocate,
Mr. Sanjib Kr. Dan, Advocatefor the State.

Ms. Rajnandini Das, Advocatefor the Defacto Complainant.

The petitioners have filed the instant application for bail in connection with Shantipur Police Station Case No.386 of 2020 Dated 1.9.2020 under Sections 341/326/307/302/34 of the Indian Penal Code read with Sections 25/27 of the Arms Act.

The learned advocate for the petitioners submits that the petitioners have been implicated in connection with the instant case simply because they were present at the spot on the said fateful day when the victim was shot dead by a gunshot. It is further submitted that the similarly

circumstanced co-accused have been enlarged on bail by the Sessions Judge and, therefore, the petitioners claim parity.

The learned advocate appearing for the State relies upon dying declaration of the victim, who has said that Bharat Roy fired the gun, which resulted into the death. According to him, the said Bharat Roy is the principal accused and the present petitioners stand on the same footing that of the other co-accused, namely, Bikash Chandra Barman and Bappa Barman, who had already been enlarged on bail by the Sessions Judge.

The learned advocate appearing for the defacto complainant submits that the aforesaid co-accused, who were enlarged on bail, after being released have intimidated the witnesses and in fact put a threat upon them not to say anything against them.

After hearing the respective Counsels and on perusal of the dying declaration placed before us by the State, we find that the principal accused, who fired the gun, is Bharat Roy and, therefore, the petitioners do not stand on the same footing that of the said principal accused. We find that the petitioners stand on the same footing that of the other two co-accused persons, who have already been enlarged on bail by the Sessions Judge and, therefore, do not find any justification in refusing the prayer. However, we are conscious that the Statute mandates that the person, who has been enlarged on bail, shall not tamper the evidence or intimidate witnesses and any such allegation would disentitle him to the order of release. Since the petitioners stand on the same footing that of the other co-accused, as aforesaid, the petitioners are entitled to bail on the ground of parity.

Accordingly, the petitioners, namely, Samir Das, Ganesh Biswas @ Gena @ Gona and Biplab Adhikary @ Bhole are released on bail upon furnishing a bond of Rs.10,000/- each, with two sureties of Rs.5,000/- each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Nadia ; and on condition that the petitioners shall not live within the jurisdiction of Shantipur where the case has been launched. However, the petitioners shall disclose their places of residence to the Officer in charge of Shantipur Police Station on being released from the Correctional Home and shall meet the Officer in charge of the concerned police station where they would be living on every weekend and they will not tamper the evidence and intimidate the witnesses to be examined during trial. The aforesaid conditions shall be relaxed only for the purpose of attending the Court when the matter would be listed. In default of the conditions so put, it would be open to the concerned Judge to pass an appropriate order as the situation may warrant without any further reference to this Court.

As such, the prayer for bail is allowed.

The application being CRM 2129 of 2021 is, accordingly, disposed of.

(Harish Tandon, J.)

(Subhasis Dasgupta, J.)