

13.04.2021
Ct No. 28
Item No. 11
Rakib (PA)

CRM 2896 of 2020
With
CRAN 2 of 2020 (old CRAN 2401 of 2020)
With
CRAN 3 of 2020

(Through Video Conference)

In Re.- An application for bail under Section 330 of the Code of Criminal Procedure read with Section 439 of the Code of Criminal Procedure;

And

In Re: Akhtar Parwez

Petitioner

Mr. Sekhar Basu, Sr. Adv.
Mr. Rajdeep Mazumdar,
Mr. Mayukh Mukherjee,
Ms. Arushi Rathore.

....For the petitioner

Mr. Saswata Gopal Mukherjee, Ld. PP,
Mr. Neguive Ahmed.

.....For the State

The present application under Section 330 of the Code of Criminal Procedure read with 439 of the Code of Criminal Procedure has been preferred by the petitioner (on behalf of the accused) in connection with Shakespeare Sarani Police Station Case No. 159 of 2019 dated 17.08.2019 under Sections 304/308/279/427/201/212 of the I.P.C.; with Section 3 PDPP Act and under Section 119/177 of MV Act.

The background of the case is that on 17.08.2019 at about 01.50 hours the accused being the driver of a private car, which was a blue coloured Jaguar car bearing registration No. WB20AU9797 was proceeding along Shakespeare Sarani from West to East direction and at the crossing of Shakespeare Sarani and Loudon Street after violating the road traffic signal hit the middle right side of one Mercedes car (Registration no. WB02 AM 6199) which was coming along Loudon Street from North to South direction and dragged the said car towards the south eastern side of the crossing and hit the traffic kiosk on the footpath and also smashed two Bangladeshi nationals namely, Kazi Md. Mainul Alam and Farhana Islam Taniya who were waiting for hiring a taxi. The two Bangladeshi nationals were taken to SSKM Hospital where they were declared “Brought Dead”.

The investigation of the case commenced on the complaint of one Kazi Md. Shafi Rahamat Ullah. In course of investigation the relatives of the present petitioner tried to mislead the Investigating Agency and produced one Arsalan Parwez. Investigation also revealed that the driver and co-passenger of the Mercedes vehicle were also seriously injured. The accused initially took shelter in one of his relation’s house at the outskirts of Kolkata and from there he fled to Dubai. Subsequently the passport of the accused on being seized reflected his movement to Dubai also. In course of investigation it was opined by the experts that the offending car was driven at an estimated speed of 130-135 km per hour before the incident and

history of the car reflected that it had violated traffic signals for 48 times during the seven months prior to the incident. The Investigating Agency on completion of investigation submitted charge-sheet on or about 18th September, 2019.

The accused was arrested on 21.08.2019 and subsequently preferred an application under Section 330 of the Code of Criminal Procedure before the Learned Jurisdictional Court and the present petitioner being the father of the accused on his behalf preferred the instant application under Section 330 read with Section 439 of the Code of Criminal Procedure.

Initially, this application was heard on 08.04.2020 and without going into the merits of the case and only on the basis of the medical report dated 16.03.2020 issued by Director of Institute of Psychiatry, the accused was granted interim bail for a period of two months. The said interim bail was extended on 09.06.2020, for six weeks. However, by the same order the Superintendent of Institute of Psychiatry – Centre of Excellence (COE) was directed to submit report with regard to the nature of ailment of the accused with specific emphasis on the aspect as to whether the mental illness, if any, of the accused is of such decree that he is unable to participate in the trial proceeding. Additionally, it was ordered that the Superintendent shall also mention in the report whether the accused needs to go to Bangalore for better treatment as contended on his behalf.

On 20.10.2020 the interim bail was extended till 31st December, 2020, after directing the report of the Superintendent to be circulated upon the lawyers appearing for the parties.

On 02.12.2020 when the matter came up for hearing the interim order was extended for a period of four months with a direction upon the Investigating Agency to take steps to ensure for medical examination with regard to the psychological status and the capacity of the petitioner/accused to face trial, to be examined at the National Institute of Health and Neurosciences, Bangalore. The Head of the Institution was directed to extend necessary assistance to the Investigating Agency and a report was also called for with regard to the psychological status of the accused.

Accordingly, a report dated 23.02.2021 has been furnished before this Court by a Board of National Institute of Health and Neurosciences, Bangalore, consisting of the Medical Superintendent, Chairman, Prof & HOD Psychiatry Member and Prof & HOD Neurology Member where the said Board was pleased to observe:

“The Board, after examining the patient and having gone through all available medical records and after discussion during the medical board meeting, opines that,

- 1. Mr. Raghiv Parwez is suffering from ‘Bipolar affective disorder in remission’. Currently maintaining improvement.*
- 2. Mr. Raghiv Parwez is maintaining well on medications (Tab. Valproate 1250 mg/day, Tab. Aripiprazole 15 mg/day and Tab/. Thyronorm 25 mcg/day).*
- 3. Detailed clinical and psychological assessment reveals that Mr. Raghiv Parwez is fit to face the trial procedures.”*

In view of the aforesaid opinion of the Board this Court is of the view that the provisions of Section 330 of Code of Criminal Procedure, is not attracted. Having considered the initial conduct of the accused, which reflects that after committing the ghastly incident he fled away to a foreign country, we are of the opinion that the interim bail so granted to the accused should not be extended. The accused as such, is directed to surrender before the Learned Chief Judge, City Sessions Court, Calcutta, on or before 20th April, 2021.

The Investigating Officer of the case is directed that if on or before 21st April, 2021 the accused do not surrender before the Learned Chief Judge, City Sessions Court, Calcutta, the Investigating Officer will exhaust the available process under law to secure the presence of the accused before the Court.

In case, pursuant to this direction the accused is taken into custody, the learned Court conducting the proceedings should take utmost efforts for concluding the trial within a reasonable period of time.

Accordingly, CRM 2896 of 2020 is dismissed and all connected applications are disposed of.

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)

(Soumen Sen, J.)