

06.07.2021

(Via Video Conference)

Court No.28
Item No. PB-112
snandy/adas

CRM 3171 of 2021

(BAIL – REJECTED)

In Re:- An application for **bail** under Section **439** of the Code of Criminal Procedure filed on 05.04.2021 in connection with Phoolbagan Police Station Case No. 204 of 2020 dated 16.11.2020 under Section 307 of the Indian Penal Code. (G.R. Case No. 2913 of 2020)

and

In the matter of: **Subrata Bhebli @ Chhotu**

.....Petitioner

Mr. Sekhar Kumar Basu, Senior Advocate

Mr. Kushal Kumar Mukherjee, Advocate

Mr. Antarikhya Basu, Advocate

.....for the Petitioner

Mr. Prasun Kumar Dutta, learned A.P.P.

Mr. Santanu Deb Roy, Advocate

.....for the State

The petitioner has filed the instant application for bail in connection with Phoolbagan Police Station Case No. 204 of 2020 dated 16.11.2020 under Section 307 of the Indian Penal Code.

Mr. Basu, learned Senior Advocate appearing for the petitioner submits that the petitioner is in custody for nearly 233 days in connection with the aforementioned case. It is further submitted that though charge-sheet has been filed and the case is committed to sessions trial but the charges have not been framed nor any witness has been examined as on date. Since there is no likelihood of commencement of trial in the near future, it would not be necessary that the petitioner should remain in custody for all time to come.

The learned Advocate for the State opposes the prayer for bail. He draws our attention to the statement of the victim girl recorded under Section 164 of the Code of Criminal Procedure. It is arduously submitted that the complicity of the offence

attributable to the petitioner cannot be ruled out.

After perusing the statement of the victim girl recorded under Section 164 of the Code of Criminal Procedure, we find that the petitioner grew affection towards her and the unfortunate incident would ascribe the role of the petitioner to the commission of the offence. We further perused the categorical statement of the victim girl that there was a threat perception by the petitioner that the moment he would be released, similar offence may be committed.

Considering the gravity of the allegations, levelled against the petitioner in the statement recorded under Section 164 of the Code of Criminal Procedure, we do not think it is a fit case where the petitioner should be released on bail at this stage.

The prayer for bail is **rejected**.

The application being **CRM 3171 of 2021** is accordingly **dismissed**.

However, we appreciate the anguish shown by Mr. Basu over the delayed trial.

We thus direct the learned Sessions Judge to frame the charges within fortnight from the date of communication of this order in presence of the parties. After the charges are framed, the prosecution shall cite the victim girl as first witness and the mother as second witness, who have vividly narrated the incident, which shall not be beyond one month from the date of framing of the charges. The Counsel of the respective parties shall cooperate and assist the Court in adhering the time limit indicated hereinabove.

After recording of the evidence of the victim girl, the petitioner would be at liberty to pray for bail, which shall be considered by the learned Sessions Judge upon recording proper reasons.

(Harish Tandon, J.)

(Subhasis Dasgupta, J.)