

04.08.2021

Sl. No. 24

Srimanta

Ct. No. – 28

D/L

CRM/3428/2021

(Via Video Conference)

In Re : An application for bail under Section 439 of the Code of Criminal Procedure, 1973.

In the matter of : Raja Pal.

... petitioner.

Mr. Ankit Agarwala, Adv.

Mr. Subir Debnath, Adv.,

Ms. Roma Roy, Adv.

...for the petitioner.

Mr. Neguive Ahamed, APP,

Mr. Binoy Panda, Adv.,

Ms. Trina Mitra Kundu, Adv.

...for the State.

Ms. Rajnandini Das, Adv.

...for the Defacto Complainant. .

The petitioner has filed the instant application for bail in connection with Shantipur Police Station Case No. 386 of 2020 dated 01.09.2020 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 petitioner submits that the petitioner has been implicated in connection with the instant case simply because he was 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 petitioner claims 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 petitioner stands on the same footing that of the other co-accused, namely, Bikash Chanda 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 petitioner does not stand on the same footing that of the said principal accused. We find that the petitioner stands 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 petitioner stands on the same footing that of the other co-accused, as aforesaid, the petitioner is entitled to bail on the ground of parity.

Accordingly, the petitioner, namely, Raja Pal is 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 Additional Chief Judicial Magistrate, Ranaghat, Nadia and on condition that the petitioner shall not live within the jurisdiction of Shantipur where the case has been launched. However, the petitioner shall disclose his place 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 he would be living on every weekend and he 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 3428 of 2021 is, accordingly, **disposed of**.

(Bibek Chaudhuri, J.)

(Harish Tandon, J.)