

04.08.2021

CRM 3608 of 2021

Court No.28
Item No.05
(Rejected)

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&
As

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Maidan P.S. Case No.143 of 2010 dated 04.12.2010 under Sections 120B/121/121A/122/123 of the Indian Penal Code along with Sections 16(1)(a)/16(1)(b)/18/18B/20/23/38/39/40 of the Unlawful Activity (Prevention) Act and under Section 25(1B)(a) of the Arms Act and subsequently charge sheet submitted under Sections 121/121A/122/120B of the Indian Penal Code and under Section 16(1)(b)/18/20 of the Unlawful Activity (Prevention) Act.

And

In the matter of : **Bimal Mallik.**

...Petitioner

**Mr. Subhasish Dasgupta,
Mr. Arnab Chatterjee.**

...For the Petitioner

**Mr. S. S. Imam,
Ms. Sonali Bhar.**

...For the State.

The petitioner has filed the instant application for bail under Section 439 of the Code of Criminal Procedure after being arrested in connection with Maidan P.S. Case No.143 of 2010 dated 04.12.2010 under Sections 120B/121/121A/122/123 of the Indian Penal Code along with Sections 16(1)(a)/16(1)(b)/18/18B/20/23/38/39/40 of the Unlawful Activity (Prevention) Act and under Section 25(1B)(a) of the Arms Act.

The petitioner has prayed for bail in connection with the above referred case on the ground that he is in custody for more than a decade. Trial of the case though has been initiated but only one witness was examined in part out of 44 witnesses. All documents under Section 207 of the Code of Criminal Procedure, which the petitioner is entitled to get, was not supplied by the prosecution. The prosecution is taking all possible means to drag the proceeding.

Learned Advocate for the State has raised serious objection

against the prayer for bail.

After hearing the respective submissions and on perusal of the materials from the Case Diary, specially some letters purportedly written to the petitioner by an illegal political organisation and also considering the fact that the allegations against the accused is waging war against the State and apart from the same, the petitioner claims parity as two of the co-accused had already been enlarged on bail and also after perusing the order granting bail to the co-accused annexed to the instant application, we do not think that the petitioner can claim on such ground. Therefore, we do not feel that the petitioner should be equated with the co-accused.

Accordingly, the prayer for bail of the petitioner is rejected.

However, the learned trial court is specifically directed to fix proper schedule as per the provisions of the Code of Criminal Procedure and expedite the hearing of the case. The Investigating Officer is also directed to produce the witnesses on the date fixed as per the schedule which will be fixed by the learned trial court.

The application for bail, being CRM 3608 of 2021, is thus **dismissed**.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of requisite formalities.

(Harish Tandon, J)

(Bibek Chaudhuri, J.)