

02.08.2021
S.D.
40.

CRM 3774 of 2021

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 24.5.2021 in connection with Uttarpara Police Station Case No. 857 of 2017 dated 12.10.2017 under Sections 302/120(B) of the IPC.

And

In the matter of: **Vivek Singh & Ors..**

....Petitioners.

Mr. Sudip Ghosh Chowdhury
Mr. Argha Das
Mr. Abhishek Bose

...for the Petitioners.

Mr. Madhusudan Sur, A.P.P.,
Mr. Dipankar Paramanick

....for the State.

The petitioner no. 1 has renewed his prayer for release on bail for the third time. The petitioner no. 2 and 3 are renewing their prayer for the second time.

It is pointed out by learned counsel for the petitioners that the petitioners are languishing in jail for the last 3 years and 8 months without trial. Our attention is invited to various pages of the application including the deposition of witnesses and orders passed by the learned Trial Court holding trial of the Sessions case. It is revealed that as many as five witnesses have been examined and witness nos. 13 and 14 were required to be examined on 30.4.2021 as per the Order No. 39 dated 27.1.2021. Our attention is also invited to the evidence of a witness declared hostile by the prosecution to submit that the witness who had identified the accused persons has been declared hostile and has simply

stated that he identified the accused person in the jail on the basis of the photograph placed to him. Accordingly, learned counsel for the petitioner submits for release of the accused petitioners on bail on any condition.

Now, learned counsel for the State adverted our attention to various pages of the Case Diary and other materials placed therein, particularly, the statement under Section 164 Cr.P.C. at page 103 and report on the T.I. parade proceeding at page 89 to submit that the identity of the petitioners does not appear to be doubtful at this stage.

It is true that there is no inexorable formula for grant or rejection of bail and judicial discretion in granting bail can be exercised on a given facts of the case, yet gravity and the nature of crime has to be taken not of.

We are of the considered view that the offence under Section 302 I.P.C. stands on a grave footing and further bearing in mind the seizure list revealing recovery of the fire arms used in the crime on disclosure statement of all the three accused persons-petitioners herein and having regard to the gravity and the nature of the offence, we are not inclined to grant bail.

Hence, the prayer for bail is rejected. However, the learned trial Court is requested to expedite the trial and conclude the same at an early date without giving any unnecessary adjournments to either of the parties.

Accordingly, the application being C.R.M. 3774 of 2021 is dismissed.

All parties shall act in terms of copy of this order downloaded from the official website of this Court.

(Suvra Ghosh, J.)

(Shivakant Prasad, J.)