

25.08.2021

CRM 4130 of 2021

court no. : 28
item no. : PB-23
matter : 439
status : ALLOWED
transcriber : nandy

In Re: An application for **Bail** under Section **439** of the Code of Criminal Procedure filed on 16.06.2021 in connection with Ratua Police Station Case No. 322 of 2012 dated 25.05.2012 under Sections 302/34 of the Indian Penal Code read with Section 27 of the Arms Act. (G.R. Case No. 2208 of 2012).

and

In the matter of: **Ramesh Ghosh**

..... Petitioner

Mr. Abhijit Kumar Adhya, Advocate

..... for the Petitioner

Mr. Saibal Bapuli, Advocate

Mr. Soumik Ganguly, Advocate

Mr. Arani Bhattacharya, Advocate

..... for the State

Advocate-on-record of the petitioner undertakes to affirm and stamp the petition/application as per the Rules within four weeks from date. Subject to such undertaking the application is taken up for hearing.

The petitioner has filed the instant application for bail in connection with Ratua Police Station Case No. 322 of 2012 dated 25.05.2012 under Sections 302/34 of the Indian Penal Code read with Sections 27 of the Arms Act.

Pursuant to the order dated August 18, 2021 the Inspector in-charge and the Investigating Officer of the present case are personally present before this Court. The said direction was passed for the simple reason that the memo of evidence produced by the Counsel appearing for the State was lacking the requisite information to be derived from the case diary. Certain facts which were recorded therein does not appear to be correct or in other words not in consonance with the case diary.

Today both the officers have made themselves physically present along with the case diary.

We do not want to go further deep in the matter because both the officers have long way to go in service and any observation made herein, may impinge further progress or advancement in their career. However, we make a note of caution that henceforth the officers must be careful and cautious enough while reproducing the facts discerned from the case diary and shall not record any statement, which belied the record on the face of it.

The **personal appearance** of the Inspector in-charge and the Investigating Officer is hereby **dispensed with**.

We have perused the case diary. A plea has been taken by the petitioner that out of ten charge-sheeted accused persons, nine have already been enlarged on bail barring the present petitioner. We have also perused the statement of the witnesses including the maker of the FIR recorded during the investigation.

Mr. Bapuli, learned Advocate appearing for the State, is very much vocal in his submission that the statement of the eye-witnesses is principally aimed at the present petitioner who, in fact, opened the firearm and the deceased suffered bullet injury and later on succumbed to death. We have further perused the statement of the maker of the FIR which does not inspire us that he has disclosed the conduct of the petitioner attributable to the commission of an alleged offence. Other statements also do not aimed at the petitioner in isolation to the others but the allegation appears to be omnibus against all. Since nine of the co-accused

persons out of ten, have already been enlarged on bail and when we find the petitioner standing on the same pedestal that of them, we find no justification in not extending the same relief as has been extended to the other co-accused.

As such, the prayer for bail is **allowed**.

Accordingly, the petitioner, namely **Ramesh Ghosh**, shall be released on bail on the following conditions:-

- i) The petitioner shall furnish a bond of Rs.10,000/-, with two sureties of Rs.5,000/- each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Chanchol at Malda;
- ii) The petitioner shall make himself available on each and every date so fixed by the trial Court;
- iii) The petitioner shall not tamper with the evidence and shall not intimidate the witnesses in any manner whatsoever;
- iv) Failure to attend the Court on a solitary day without any justifiable reason shall disentitle the petitioner the privilege of bail and the trial Court would be at liberty to cancel the bail without any reference to this Court.

The application being **CRM 4130 of 2021** accordingly **disposed of**.

(Harish Tandon, J.)

(Bibek Chaudhuri, J.)

