

16.11.2021

Court No.28
Item No.38
(REJECTED)

Saswata

CRM 4755 of 2021

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with English Bazar Police Station Case No. 881 of 2019 dated 31.08.2019 under Sections 302/201/120B of the Indian Penal Code;
And

In the matter of : **Rafikul Sk. @ Rafiqul & Anr.**
...Petitioners.

Mr. Amitabha Karmakar
Mr. Arup Kumar Bhowmick

...For the Petitioners

Mr. Rana Mukherjee, APP
Ms. Debjani Sahu

... For the State

The petitioners have filed the instant application for bail under Section 439 of the Code of Criminal Procedure in connection with English Bazar Police Station Case No. 881 of 2019 under Sections 302/201/120B of the Indian Penal Code.

Learned Advocate for the petitioners submits that so far as petitioner no. 1 is concerned, the bail application filed before this Court was rejected on 19.01.2020 but the instant application for the petitioner no.2 is filed for the first time.

It is submitted that the petitioners have been wrongly implicated in connection with the aforementioned case when no evidence has been found against them, which would be found from the witnesses shown in the charge sheet.

Learned Advocate for the State opposes the prayer for bail and submitted that the petitioner no. 1 is the helper in the truck which was carrying tea leaves from Assam and the petitioner no. 2 is the mastermind behind the commission of offences as the driver of the said vehicle was killed by strangulation.

After hearing respective submissions, it transpires that the truck was intercepted and it was detected subsequently that a

person has been found dead. Subsequently, investigation was made and one of the vital witnesses has disclosed the name of petitioner no.1 and other persons who have committed such murder.

It is further submitted that the petitioner no. 2 has been found to have plotted such incident in connivance with the co accused and, therefore, he stands on a the worst footing than the others. Though the petitioners are languishing in jail for nearly 2 years, but it transpires that after the submission of charge sheet, schedule for recording the evidence was fixed in the month of July 2021 but because of the pandemic having continued, the witnesses could not be examined.

We are concerned about the delayed trial. Pandemic is continuing and the entire globe is grappling with it. Justice cannot be kept at halt. It must not only seen to be done but have to be done. Time has come that the Courts are gradually returning to normalcy and permitting physical hearing, as well as recording of witnesses so that case can be proceeded with and timely justice can be imparted.

Be that as it may, we have found materials against the petitioners from the case diary, which do not instill any confidence in us that the petitioners would misuse the liberty until the initiation of the witness examination.

We, thus, **reject** the prayer of the petitioners for bail

The application for bail being CRM 4755 of 2021 is accordingly **dismissed.**

(Harish Tandon, J)

(Rabindranath Samanta,J.)

