

22.11.2021
Ct No. 28
D/L 5
ab/rrc

C.R.M. 6831 of 2021
(Via Video Conference)

Re: An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with English Bazar Police Station Case No. 1041 of 2019 dated 14.10.2019 under Sections 341/506/436/304/186/332/333/120B of the Indian Penal Code read with Sections 3/4 of the P.D.P.P. Act and adding Section 9 of the M.P.O. Act.

In Re: **Sk. Bablu @ Bablu Sk.**

... petitioner

Mr. Mrityunjoy Chatterjee
Mr. Kaushik Dey
Mr. Debapriya Majumder
Mr. Sreejeet Basu Roy

... for the petitioner

Mr. Saibal Bapuli
Mr. Bibaswan Bhattacharya

.... for the State

The learned 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 under Section 439 of the Code of Criminal Procedure after being arrested in connection with English Bazar Police Station Case No. 1041 of 2019 dated 14.10.2019 under Sections 341/506/436/304/186/332/333/120B of the Indian Penal Code read with Sections 3/4 of the P.D.P.P. Act and adding Section 9 of the M.P.O. Act.

The matter assumes seminal importance on the sequel of events and the exercise of power by the authority upon whom, such power vests. The petitioner was a Upa-pradhan of the Gram Panchayat and a requisition meeting was called showing no confidence in the discharge of the duties by the petitioner in such capacity. A writ petition came to be filed before this Court and an order was passed on 22nd September, 2021 fixing a date for holding the meeting by the prescribed authority on 29th September, 2021.

The instant case was initiated much prior thereto on an allegation that 600 persons gathered and prevented the public authorities to discharge their function and also damage the public property. The name of the petitioner was not shown in the main charge sheet submitted after the completion of the investigation. It is only when the supplementary charge sheet was filed on 27th September, 2021, the name of the petitioner was included and in fact, he was arrested in the morning of 29th September, 2021. It is sought to be contended by the learned Advocate for the petitioner that out of political vengeance and the use and misuse of the powers by the authority upon whom it vests, the petitioner was arrested in the morning of 29th September, 2021 to prevent him from attending the requisition meeting in order to have an easy passage to the motion of no confidence against him. In fact, such purpose is achieved. The petitioner is no longer the Upo-pradhan having removed by majority in the said requisition meeting.

Mr. Bapuli, learned Advocate for the State is very much vocal in his submission that the eye witnesses whose statements recorded under Section 161 of the Code of Criminal Procedure disclosed the name of the petitioner and his role attributable to the commission of such offence.

Curiously enough, the name of the petitioner was not included in the main charge sheet submitted, despite the fact that the eye witnesses have disclosed the name of the petitioner and his involvement in the commission of such offence. It is only when the requisition meeting was directed to be fixed on a particular date, the powers have been exercised with an oblique motive and the petitioner is arraigned in a supplementary charge sheet as well as arrested before the requisition meeting. The other co-accused have already been enlarged on bail. We do not find any justification in further custody of the petitioner. Accordingly, the prayer for bail is allowed.

Accordingly, the petitioner shall be released on bail upon furnishing a bond of Rs. 10,000/- (Rupees Ten Thousand Only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Malda subject to the conditions that the petitioner shall attend the trial Court on each and every date of hearing of the case unless prevented by sufficient cause and in the event of his failure on any date without justifiable cause, the trial Court would be at liberty to cancel the bail without any further reference to this Court.

The application for bail being **C.R.M. 6831 of 2021** is,
allowed.

(Harish Tandon, J.)

(Rabindranath Samanta, J.)