

02.03.2021
Item No.11
Ct.No.28
Subha
partly allowed

C.R.M. 9678 of 2020
(Via Video Conference)

Shayed Ali Laskar @ Sahid & Ors.
-vs-
The State of West Bengal

In Re: An application for bail under Section 439 Cr.P.C in connection with Joynagar P. S. Case No. 945 of 2018 dated September 28, 2018 under Section 302/34 of the Indian Penal Code and Sections 25/27 of the Arms Act.

Mr. Satadru Lahiri
Mr. Santanu Maji
Ms. Rajashree Tah

... For the Petitioners.

Mr. Nguive Ahmed
Ms. Amita Gaur

... For the State.

Mr. Tushar Kanti Har
Mr. Somnath Chakraborty

....for the de facto complainant.

Mr. Lahiri, learned advocate appearing for the petitioners submits that the petitioner no.1 is in custody for two years one month, petitioner no.2 is in custody for two years two months and petitioner no.3 is in custody for one year one month.

Learned advocate for the petitioner further submits that the petitioners have been falsely implicated in the instant case and similarly placed accused persons have been granted bail in CRM 7489 of 2020 vide order dated 16th October, 2020 passed by a co-ordinate Bench of this court.

Mr. Ahmed, learned advocate appearing for the State opposes the prayer for bail and draws the attention of this court to the statement of an eye witnesses recorded under Section 164 of the Code of Criminal Procedure as also the seizure list wherein recoveries were effected at the instance of the petitioner no. 1 and petitioner no.2.

We have perused the materials on record available in the case diary. So far as the statement recorded under Section 164 of the Code of Criminal Procedure is concerned, we do not find any overt act in respect of all the accused but on perusal of the seizure list we find certain deadly weapons alleged to be used at the time of the commission of the offence at the instance of petitioner no.1 and petitioner no.2. As such, the prayer for bail of the **petitioner no.1** and **petitioner no.2** namely, **Shayed Ali Laskar @ Sahid** and **Sahabuddin Molla** respectively is rejected.

Having regard to the locus of the petitioner no.3, we are of the opinion that the petitioner no.3 is similarly situated with accused persons, who have been granted bail vide order dated 16th October, 2020 passed in CRM 7498 of 2020.

As such, prayer for bail of the **petitioner no.3**, namely **Motaleb Gayen** is allowed.

Accordingly, we, therefore, grant bail to the petitioner no.3, **Motaleb Gayen** subject to the satisfaction of the learned Additional Chief Judicial Magistrate, Baruipur upon furnishing a bond of Rs.20,000/- (Rupees Twenty thousand only) with two sureties of Rs.10,000/- (Rupees Ten Thousand only) one of whom must be local and, on condition that the petitioner no. 3 shall ensure his appearance on each day of trial and will not intimidate the witness in any manner whatsoever.

With the aforesaid observations, the application for bail being CRM 9678 of 2020, is, accordingly, disposed of.

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)

(Tapabrata Chakraborty, J.)