

22.03.2021.
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(Allowed)

C.R.M. 10366 of 2020

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Santipur P. S. Case No.25 of 2000 dated 14.01.2020 under Sections 302/120B of the Indian Penal Code.

In the matter of : Arup Sarkar.

.... Petitioner.

Mr. Sekhar Kr. Basu, Sr. Adv.,
Mr. Subir Debnath,
Mr. Ankit Agarwala,
Ms. Roma Roy,
Mr. Vincet Ojha.

...for the Petitioner.

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

...for the State.

The 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.

This is an application for bail in connection with Santipur P. S. Case No.25 of 2000 dated 14.01.2020 under Sections 302/120B of the Indian Penal Code at the behest of the petitioner.

Though the gravity of the offence which is serious in nature does not initially appear to us to extend any leniency or sympathy to the petitioner, yet upon perusal of the statements of the so called eye witnesses placed before us, we decided to consider the prayer for bail in the perspective thereof. There is a variance in the statements of the witnesses recorded under

Section 164 of the Code of Criminal Procedure and the manner in which the Investigating Officer proceeded with the investigation raises a considerable doubt in his role in such capacity.

Disparity in the version is manifested from the statements of the so called three eye witnesses recorded under Section 164 of the Code of Criminal Procedure. The fringe persons have been projected affront and it is sought to be contended that their involvement to the alleged offences cannot be ruled out. However, in course of hearing, we find that some of the co-accused have been granted privilege of anticipatory bail on the ground of parity.

So far as the case of Dipankar Chatterjee @ Dipankar Chattopadhyay is concerned, it is uniformly submitted before us that he stands on the same footing that of the present petitioner. However, the State sought to impress on the fact that the aforesaid co-accused was wrongly granted privilege of anticipatory bail treating him on the same pedestal that of the other co-accused which is factually incorrect and, therefore, the State has decided to challenge the order granting anticipatory bail to other co-accused who was found to stand on parity with that of Dipankar Chatterjee @ Dipankar Chattopadhyay.

The fact remains that the order granting anticipatory bail to Dipankar Chatterjee @ Dipankar Chattopadhyay has not been challenged as yet before the Supreme Court. However, we invited the learned Advocate appearing for the State to address

us on the merit of the instant application. We have already noticed the disparity in the versions of the so called eye witnesses recorded under Section 164 of the Code of Criminal Procedure. We further finds that the charge sheet has already been submitted and, therefore, we do not feel any further custody is required of the present petitioner.

Accordingly, we direct that the petitioner, namely, Arup Sarkar shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local to the satisfaction of the learned Additional Chief Judicial Magistrate, Ranaghat subject to the condition that he will meet the Officer-in-charge of Santipur Police Station once in a week until further orders and on further condition that he shall not leave the territorial jurisdiction of the said Police Station without the leave of the Court or the Magistrate as the case may be. Apart from the same, the petitioner shall make himself available on each day of the listing of the matter before the Court and the default on any solitary occasion without any justifiable cause may disentitle him to the privilege of bail granted by this Court without any further reference to this Court.

With the aforesaid observation, the application for bail is disposed of.

(Harish Tandon , J.)

(Tirthankar Ghosh, J.)

