

**CRM 12 of 2021
(Through Video Conference)**

Abhijit Kar @ Papai Kar @ Uria Petitioner
Vs.
The State of West Bengal ... Respondent

Mr. Sudip Guha, Advocate
...for the Petitioner. Present in Court.

Mr. Ujjwal Luksom and
Mr. Sourav Ganguly, Advocates
...for the State. Present in Court.

The prayer in the present petition is for grant of pre-arrest bail to the petitioner, pending trial in Cooch Behar Kotwali P.S. Case No.505 of 2017 dated 12.07.2017, registered under Sections 302/120B of the Indian Penal Code read with Sections 25(1-A)/27 of the Arms Act. The charge-sheet has already been presented.

The arguments raised by the learned counsel for the petitioner are that the main accused, namely, Biswajit Mallick against whom specific allegation is that he killed the deceased by gunshot injury, has already been granted default bail by the learned court below. Bidhan Das is also named in the FIR, who was also granted default bail on account of non-filing of the charge-sheet by the investigating agency during the time permitted.

He further referred two orders passed by the learned Sessions Judge, Cooch Behar by which Bibek Rabi Das, Monotosh Dey Sarkar @ Dipankar Dey and Ratan Roy @ Hudu have been granted bail primarily considering the fact that the main accused was granted bail.

Further, it was argued that the only material at present against the petitioner is the statement of the co-accused, which may not be sufficient for conviction of the petitioner after trial. He has not been named in the FIR.

On the other hand, learned counsel for the respondent submitted that the petitioner has been specifically named by the co-accused who was arrested. The petitioner had played active role with the other accused in the conspiracy, who were arrested and thereafter granted either default bail or regular bail from the court concerned. In a case registered under Section 302 IPC, the petitioner should not be granted pre-arrest bail as he had been absconding ever since. His name cropped up during the investigation after the statement of Bibek Rabi Das was recorded on 21.7.2017.

After hearing learned counsels for the parties, in our opinion, no case is made out for grant of pre-arrest bail to the petitioner in which he is said to be an accused in a case registered under Section 302 IPC. The ground raised on the last date of hearing was that the main accused, who had caused the gunshot injury, has been granted bail by the court below, will not come to the rescue to the petitioner for the reason that he was granted default bail by the court below as the investigating agency had failed to file charge-sheet within the time permitted. Much needs to be said about the manner in which cases of heinous crimes are being investigated and the accused are getting default bail. The other accused in the case were arrested and released on regular bail by the court below considering the fact that allegedly the main accused had been granted bail. The relevant fact is that it

was not on merits but on account of non-filing of charge-sheet within the time permitted.

Considering the serious of allegations against the petitioner, we do not find it to be a fit case for grant of pre-arrest bail.

The present application is, accordingly, dismissed.

(Rajesh Bindal, J.)

(Saugata Bhattacharyya, J.)