

14.03.2022

Serial no. 31

Dd

CRM 1221 of 2021

In re : An Application for **Bail** under Section **439** of the Code of Criminal Procedure in connection with **Lalgarh** Police Station Case No. **04** of **2011 (G.R. No. 21 of 2011)** dated **07.01.2011 (C.B.I. S.C.B Kolkata case no. RC-3/S/2011)** under Sections **120B/148/307/326/149/302** of the Indian Penal Code, and Sections **25/27** of Arms Act.

-And-

In the matter of : Fullara Mondal

... ..Petitioner

Mr. Bikash Ranjan Bhattacharya, Id. SR. adv.

Mr. Udai Sankar Chattapadhyay,

Mr. Suman Sarkar Chattapadhyay,

Mr. Santanu Maji,

Mr. Pronay Basak,

Mr. Debdipto Banerjee,

Ms. Trisha Rakshit, Advocates

... .. For the Petitioner

Mr. Y. J. Dastoor, Id. ASG

Mr. Phiroze Edulji,

Mr. Samrat Goswami, Advocates

... ..For the CBI

Petitioner renews the prayer for bail.

Learned senior advocate appearing for the petitioner submits that the petitioner is in custody for about 8 years. The petitioner surrendered sometime in 2014. He submits that the prosecution will examine at least 116 witnesses, out of which only 26 witnesses were examined. He contends that none of the witnesses so far examined on behalf of the prosecution implicates the petitioner, in any manner whatsoever. The petitioner was a member of the Zilla Parishad and was well-known in the locality. The petitioner also subscribes to a political ideology. Consequently the petitioner was conveniently roped into the proceeding. He

relies upon **2021 SCC OnLine SC 1156** in **(Ashim alias Asim Kumar Haranath Bhattacharya alias Asim Harinath Bhattacharya alias Aseem Kumar Bhattacharya vs. National Investigation Agency)** and submits that where the period of detention is large as in the present case, the Court should grant bail to the petitioner.

Learned Additional Solicitor General appearing for the CBI submits that the police filed charge sheet when the time period stipulated for the same was nearing. He submits that the petitioner was absconding for a considerable period of time and, in fact, nearly about four years. The petitioner was involved in the incident. Nine persons were murdered and twenty-nine suffered injuries in the incident. He submits that there was open firing during the incident. The petitioner was one of the trainers imparting therein training in user of firearms to the villagers of the locality. He submits that at least 7 witnesses out of the 26 witnesses so far examined named the petitioner and described her involved in the incident. He contends that the prosecution is not indolent in the matter. Witnesses are being examined as and when the dates are provided by the trial Court. He submits that the petitioner was one of the persons who was involved in preventing the injured from being taken to the hospital at the time of incident. According to him, the incident is of a nature which involves death penalty also.

In **Ashim alias Asim Kumar Haranath Bhattacharya alias Asim Harinath Bhattacharya alias Aseem Kumar Bhattacharya** (supra), the Supreme Court noticed that long incarceration of the accused in custody is a ground for grant of bail. In the fact of that case, the Court noticed that charge sheet was filed in 2012 and charges were framed in June, 2019. In such circumstances, the

accused therein was directed to be released on post arrest bail by the learned Trial Court.

In the facts of the present case, the gravity of the offence is severe and at least not the same as of **Ashim (supra)**. It cannot be said that the prosecution is indolent in the present case. The petitioner was absconding for at least four years. There are 116 witnesses to be examined by the prosecution. The prosecution examined 26 witnesses. Some of the prosecution witnesses described the involvement of the petitioner in the incident in their evidence. At this stage, therefore, it would be inappropriate to conclude that there is no material to implicate the petitioner in the incident. However, we hasten to add that we are not called upon to evaluate the evidence and we did not do so by any stretch of the imagination.

There is hardly any change in circumstances subsequent to the earlier order of rejection for this Court to grant bail to the petitioner. Consequently, we are not inclined to grant bail to the petitioner.

Prayer for bail of the petitioner is **rejected**.

However, we request the trial Court to dispose of the trial as expeditiously as possible without granting any unnecessary adjournments to any of the parties. The trial Court will fix consecutive dates of trial as the diary of the Court may permit and endeavour to adhere to the same to the extent possible.

CRM 1221 of 2021 is dismissed.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)

