

12.04.2022
Item No.03
Suman
Ct.42

CRM (SB) 59 of 2022

In Re: An application under Section 439 of the Code of Criminal Procedure in connection with Tehatta Police Station Case No.84/2022 dated 04.02.2022 under Sections 379/411/413/414/34 of the Indian Penal Code and 7(1)(a)(ii) of E.C. Act, 1955.

And

In the matter of: **Babar Ali Mallick**
 Vs.
 The State of West Bengal

Mr. Arnab Chatterjee
Mr. Amanul Islam
Mr. Sourav Mukherjee
...for the petitioner

Mr. Arani Bhattacharyya
...for the State

In connection with Tehatta Police Station Case No.84 of 2022 one Hijat Sekh was arrested while transporting 2280 litres of blue kerosene oil by a Bolero car. After recovery of the said articles a suo motu case was registered against the said Babar Ali Mallick under Sections 379/411/413/414/34 of the Indian Penal Code and 7(1)(a)(ii) of E.C. Act, 1955. During interrogation the arrested accused namely Hijat Sekh stated the name of the present petitioner Babar Ali Mallick from whom he received the seized kerosene oil. It is submitted by the learned advocate for the petitioner

that except the statement of the arrested accused there is no material against the present petitioner to rope him in the instant case. Therefore, he should be released on bail.

Learned P.P.-in-charge, on the other hand, submits on production of case diary that the arrested accused Hijat Sekh stated the name of Babar Ali Mallick as the kingpin of the offence. He supplied the seized kerosene oil to the arrested accused person. On perusal of the case diary it is also found that anticipatory bail of the present petitioner was rejected. However, during investigation of this case nothing was seized from the possession of the present petitioner. There is no document collected by the Investigating Authority to prove even prima facie that the petitioner deals in kerosene oil which was seized from Hijat Sekh. The present petitioner was booked in the instant case on the basis of the statement of the accused which is not admissible in the evidence.

Considering such aspect of the matter, I am inclined to release him on bail. The petitioner Babar Ali Mallick is enlarged on bail of Rs.10,000/- with one surety of like amount to the satisfaction of the learned Additional Chief Judicial Magistrate, Tehatta with further condition that if on bail, he shall meet the Investigating Officer once in a fortnight and on the first date of his

visit he shall file affidavit stating his present residential address, mobile phone number, Aadhaar Card number etc. to the Investigating Officer. Violation of the above condition shall be the resultant effect for cancellation of the order of bail without further reference to this Court.

The application is, thus, disposed of.

(Bibek Chaudhuri, J.)