

07.06.2022
Item No.06
suman
Ct.42

(Via Video Conference)

CRA (SB) 61 of 2022
With
CRAN 1 of 2022

In Re: An application under Section 389(1) of the Code of Criminal Procedure.

And

In the matter of:

**Bablu Sk. @ Sk. Bablu
Vs.
The State of West Bengal & Anr.**

Mr. Ayan Bhattacharya
Mr. Kunal Ganguly
...for the appellant

Mr. Saswata Gopal Mukherji
Ms. Faria Hossain
Mr. Anand Keshari
...for the State

The petitioner was convicted in Sessions Case No.231 of 2012 corresponding to Sessions Trial No.01/February/2013 for the offence punishable under Section 307 of the Indian Penal Code read with Section 27 of the Arms Act and was sentenced to suffer rigorous imprisonment for a period of seven years with fine and default clause for the offence punishable under Section 307 of the Indian Penal Code and also to suffer rigorous imprisonment for three years for the offence punishable under Section 27 of the Arms Act. It is submitted by the learned advocate for the petitioner that the victim is the

second wife of the petitioner. Prosecution cited one person as independent witness who turned hostile during trial of the case. Ballistic report of the gun shot injury received by the victim was not submitted during trial. Besides the above noted lacuna the petitioner is entitled to bail on the ground that the petitioner was sentenced to term imprisonment. He was all along on bail during trial except during the period of Covid pandemic when he was not in a position to attend the Court and for this reason the petitioner was taken to custody.

The learned P.P. -in-charge, on the other hand, has raised objection against the prayer for bail on the ground that eye witness account goes against the petitioner and directly implicate the same in the offence charged.

Since the petitioner was sentenced to term imprisonment, he should be released on bail pending the disposal of the appeal. In support of his contention Mr. Bhattacharya refers to the decision of the Hon'ble Supreme Court in **Bhagwan Rama Shinde Gosai & Ors. versus State of Gujarat** reported in **1999 (4) SCC 421** and **Kiran Kumar & Ors. versus State (NCT of Delhi)** reported in **(2001)10 SCC 338**.

In view of the ratio laid down in the above mentioned decisions by the Hon'ble Supreme Court I am inclined to release the petitioner on bail. Accordingly, the petitioner is released on bail on his furnishing bond of Rs.20,000/- with

two sureties of Rs.10,000/- each, one of whom must be a local surety, to the satisfaction of the learned Chief Judicial Magistrate, Birbhum at Suri with further condition that if on bail, he must be physically present before the Court of the learned Chief Judicial Magistrate once in a month

The application is, thus, disposed of.

(Bibek Chaudhuri, J.)