

05.01.2022
Court No.32
Item No. 222
Avijit Mitra

C.R.M. 6173 of 2021 (Through video conference)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure ;

And

In Re : Sri Nilasish Sadhukhan @ Nirasish @ Papan & anr.

.... petitioners

Ms. Sananda Bhattacharya

...for the petitioners

Mr. Neguive Ahmed,

Ms. Trina Mitra

...for the State

Mr. Uday Shankar Chattopadhyay

...for the *de facto* complainant

Languishing in custody for about 190 days, the instant application is filed in connection with Santipur Police Station Case No.224 of 2021 dated April 23, 2021 under sections 302/34 of the Indian Penal Code by the principal accused praying for bail.

Ms. Bhattacharya, learned advocate representing the petitioners submitted, that this is a case of accidental death. No elements are there to indicate that the present petitioners committed murder of the deceased. In *Post-mortem* report, no mention of external injuries are there. Stories are fabricated to falsely implicate the present petitioners. Chargesheet has been filed. Their custodial detention is not necessary. Accordingly, bail is prayed for.

Mr. Chattopadhyay, learned advocate appearing for the *de facto* complainant submitted that the present petitioners over phone called the victim and in fact committed an act of kidnapping. They had also asked for ransom. When the same was not given the victim was murdered. The statements of witnesses reveal that ransom was asked from the father of the victim. He submitted that it is a case of murder and on the basis of incriminating elements available, Mr. Chattopadhyay strongly opposed the bail.

Ms. Mitra, learned advocate appearing for the State also strongly opposed the bail on the same ground. According to her, there was a phone-call from the present petitioners asking for ransom from the father of the victim. Inviting our attention to the statement of various witnesses she strongly opposed the bail on the ground that the allegation is very grave and serious and strong incriminating elements are there against the present petitioners.

We have perused the case diary and heard rival submissions. We have also perused the statements of various witnesses which are contradictory in nature as to the commission of offence. Statement of independent witnesses who were boatmen appears to be non-incriminatory against the present petitioners. On the other hand, statements of other witnesses are incriminatory. *Post-mortem* does not reveal any external injury. In a nutshell, ambiguous and contradictory materials do not clearly indicate whether this is a case of murder or accident. Since chargesheet has been filed, no further detention is necessary. In the

conspectus of facts considering the extent of incriminatory materials and the nature of allegations, we are inclined to allow bail to the present petitioners.

Accordingly, we allow this application and direct that the petitioners, namely **Sri Nilasish Sadhukhan @ Nirasish @ Papan and Netai Bhabai @ Nitai Bhabai @ Bhambol**, shall be released on bail upon furnishing a bond of Rs.10,000/- each with two sureties of like amount each, one of whom must be a local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Ranaghat, Nadia.

The petitioners shall attend the learned Court below on all the dates, as specified for hearing and shall not intimidate the witnesses or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioners fail to comply with the aforesaid directions without any justifiable cause, the learned trial court would be at liberty to cancel their bail without any further reference to this Court.

With the aforesaid observations, the application for bail, being CRM No. 6173 of 2021, is disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Sugato Majumdar, J)

(Tapabrata Chakraborty, J)