

31.01.2022
6,7& 8
sdas
Partly allowed

C.R.M. 7700 of 2021
with
CRM 6932 of 2020
+
CRAN 1 of 2020
with
CRM 6893 of 2020
+
CRAN 1 of 2020
(via video conferencing)

In Re : C.R.M. 7700 of 2021

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Thakurpukur Police Station Case No. 20 of 2020 dated 23.01.2020 under Sections 307/324/326/34 of the Indian Penal Code.

In Re : Kaushik Mondal @ Bapi & Ors. petitioners

Mr. Rajdeep Mazumder
Mr. Pritam Roy
Ms. Arushi Rathore

.....for the petitioners

Mr. Saibal Bapuli, learned APP
Ms. Sujata Das
Mr. Bibaswan Bhattacharya

....for the State

Learned Counsel appearing for the petitioners submits that the petitioners are in custody for more than two years. They renew their prayer for bail. It is further contended that some of the accused persons have been enlarged on interim bail by the learned court below. It is also contended that the victim

died after four months of the incident. Assault was with lathi, fists and blows and there was no intention to kill the victim. In the aforesaid factual, offence under Section 302 of the Indian Penal Code is not disclosed.

Learned Additional Public Prosecutor opposes the prayer for bail. He submits that prayer for interim bail to co-accuseds have been assailed in CRM 6932 of 2020 and CRM 6893 of 2020. They are listed today for hearing with this matter. It is further contended that the petitioners had come in a body armed with lathis and mercilessly assaulted various persons including the deceased, Bhaskar Banerjee. As a result of assault, Bhaskar Banerjee was hospitalized and subsequently succumbed to his injuries.

We have considered the materials on record including the statements of the eye-witnesses. Presence of all the petitioners are noted in the statements of the witnesses. However, specific role has been attributed to petitioner no. 3 along with one Parimal Saha, Mahadev Saha and Sankar Halder in the assault of the deceased. Deceased was alive for four months. We are conscious in a case involving common object/common intention, specific role of an accused in the assault need not be proved provided he was a member of the unlawful assembly which shared common object or had common intention with other accused persons. In the factual matrix of the case, particularly where the incident occurred in two stages and there is nothing to show that the petitioner nos. 1,2 and 4

actually assaulted the deceased during the subsequent stage, we are of the opinion whether they shared the common object/intention to commit the murder requires to be assessed in the light of the aforesaid circumstances during trial. They have already been in custody for more than two years. Charge has not yet been framed and there is little possibility of the trial concluding in near future. Striking a balance between the nature of the offence and the extent of complicity of the petitioner nos. 1,2 and 4 therein on one hand and the period of detention suffered by them including slow progress in the matter before the trial court on the other hand, we are of the opinion that the petitioners no. 1,2 and 4 have made out a case for favourable consideration of bail.

In view of the aforesaid facts, we are inclined to grant bail to the petitioners no. 1, 2 and 4.

Accordingly we direct that the petitioners no. 1, 2 and 4 shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand Only) each with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, South 24 Parganas at Alipore, on condition that they shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever with a further condition that they shall not enter into the jurisdiction of Thakurpukur Police Station except for the purpose of attending court proceedings and shall provide

the address where they shall presently reside to the said officer-in-charge as well as court below and shall report to the officer-in-charge concerned within whose jurisdiction they shall presently reside once in a week until further orders.

In the event they fail to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel their bail in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed in so far as petitioners no. 1, 2 and 4 are concerned.

Prayer for bail of the petitioner no. 3, however, stands on a different footing from the other petitioners. Statements of the witnesses, as noted above, show active role of the petitioner no. 3 in assaulting the deceased. His prayer was rejected by a co-ordinate Bench of this Court a couple of months ago in September, 2021.

Accordingly, we are not inclined to grant bail to the petitioner no. 3 and application for bail in so far as petitioner no. 3 concerned is, thus, rejected.

CRM 6932 of 2020
with
CRAN 1 of 2020

In Re : Mahadev Saha petitioner

Md. Sabir Ahmed
..... for the State/petitioner

Mr. Manjit Singh
..... for the opposite party

Matter is heard at some length. At this stage, Mr. Singh, learned Counsel appearing for the opposite party seeks adjournment and desires to make further submissions on another day.

Matter is adjourned for the day.

CRM 6893 of 2020
with
CRAN 1 of 2020

In Re : Pradyut Mondal @ Pradut Mondal
..... petitioner

Ms. Sujata Das
..... for the State/petitioner

Matter is adjourned for the day.

(Bivas Pattanayak, J.)

(Joymalya Bagchi, J.)