

10.02.2022
Court No.32
Item No.01
Avijit Mitra

C.R.M.7709 of 2021

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

And

In Re : Monir Hossain Molla & anr.

.... petitioners

Mr. Sekhar Kumar Basu, Sr. Adv.,
Mr. Daanish Haque,
Md. Zohaib Rauf,
Mr. Abdul Zahid

...for the petitioners

Mr. Sudip Ghosh,
Mr. Bitasok Banerjee

...for the State

The present application for bail has been preferred in connection with Ausgram Police Station Case No.283 of 2021 dated September 08, 2021 under Sections 307/302/120B of the Indian Penal Code and Sections 25/27/35 of the Arms Act, 1959.

Mr. Basu, learned senior advocate appearing for the petitioners submits that the petitioners have been falsely implicated due to political rivalry between the parties. No specific overt act has been attributed to the petitioners. However, one Ayub Khan alias Bumba who fired the shot, was granted bail by a Coordinate Bench of this Court on 20th December, 2021. The petitioners have been sought to be roped in on the basis of mere suspicion. Upon completion of investigation chargesheet has been submitted and as such, further detention of the petitioners, who are in custody for more than five months, may not be necessary and they may be enlarged on bail on any stringent condition.

Mr. Ghosh, learned advocate appearing for the State opposes the petitioners' prayer and submits that the petitioners are directly involved in the alleged offence. They conspired together to murder the victim. The statement of the father of the *de facto* complainant had named the petitioners in his statement recorded under Section 164 of the Code. In the said conspectus, the petitioners are not entitled to the relief as prayed for.

Heard the learned advocates appearing for the respective parties.

Upon assessing the materials in the case diary, *prima facie*, we find that the petitioners are placed on a better footing than Ayub Khan alias Bumba inasmuch as he fired a shot upon the victim. The said Ayub Khan alias Bumba has already been granted bail by a Coordinate Bench of this Court. Considering the manner in which the offence has taken place, the period of detention already suffered by the petitioners and the possible extent of their complicity in the alleged offence, we are of the opinion that further detention of the petitioners is not necessary.

Accordingly, we allow this application and direct that the petitioners, namely, **Monir Hossain Molla and Biswarup Mondal @ Manu**, shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be a local, to the satisfaction of the learned Chief Judicial Magistrate, Purba Bardhaman.

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 the petitioners' bail without any further reference to this Court.

With the aforesaid observations, the application for bail, being CRM No.7709 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)