

CRM 8047 of 2021

06.04.2022
Sl. 63
Court No.29
(sourav)
(Allowed)

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with **Shakespeare Sarani** Police Station Case No. **22** of **2021** dated **28.01.2021** under Sections **341/323/376D/354/506(II)/34** of the Indian Penal Code.

And

In the matter of: **Debasish Dutta**

....petitioner.

Mr. Bikash Ranjan Bhattacharya, Sr. Adv.
Mr. Debasish Ray
Mr. Mritunjoy Chatterjee
Mr. Debapriya Majumder

...for the petitioner.

Mr. Saswata Gopal Mukherji, Ld. PP,
Mr. Saibal Bapuli, Ld. APP
Mr. Rudradipta Nandy
Mr. Bibaswan Bhattacharya

... for the State.

Mr. Sandipan Ganguly
Mr. Arkadeb Bahttacharya

...for the defacto complainant.

Petitioner prays for bail.

Learned senior advocate appearing for the petitioner submits that the petitioner is in custody in excess of 10 months. The police filed charge-sheet and, therefore, further detention of the petitioner is not required. He refers to the judgment and order dated February 8, 2022 passed by this Hon'ble Court where such co-accused was extended the facility of anticipatory bail. He submits that although two Special Leave Petitions are pending before the Hon'ble Supreme Court against such judgment and order, the Hon'ble Supreme Court is yet to intervene in respect of the same.

Learned senior advocate appearing for the petitioner submits that the petitioner is sought to be implicated in an

incident happening one year prior to the lodgment of the First Information Report. He submits that the petitioner is the manager of the business of the other co-accused who was granted anticipatory bail by this Hon'ble Court. This Hon'ble Court while granting anticipatory bail to such co-accused, noted the disputes amongst the family members of such co-accused with regard to the immovable properties and business. He submits that the petitioner was unfortunately falsely implicated by reason of his employment with the other co-accused.

Learned Public Prosecutor appearing for the State submits that there are cogent materials against the petitioner herein. He refers to the materials in the case diary. He submits that there are two incidents. The petitioner is involved in both of them. He refers to the statement of the victim recorded under Section 164 of the Criminal Procedure Code. He also refers to the statement of an eyewitness recorded under Section 161 of the Criminal Procedure Code.

Learned advocate appearing for the defacto complainant submits that the petitioner is guilty of grave offence. The so-called delay in the lodgment of the First Information Report was explained by the defacto complainant. The defacto complainant was under constant threat of her offensive pictures being circulated in the internet. The police although seized the mobile phone of the other co-accused, the forensic report is still awaited. He submits that mere filing of the charge-sheet of the period of detention are no grounds for enlarging the petitioner on bail considering the gravity of the offence and the

involvement of the petitioner therein.

The co-accused Pratik Agarwal was before this Hon'ble Court seeking anticipatory bail by way of CRM 7652 of 2021. Such application was disposed of by a judgment and order dated February 8, 2022 enlarging Pratik Agarwal on anticipatory bail. The Court is informed that two Special Leave Petitions are pending directed against such judgment and order, one at the instance of the State and the other at the instance of the defacto complainant. The Court is also informed that the Supreme Court was pleased to direct issuance of notice in the Special Leave Petition filed at the instance of the defacto complainant.

While enlarging the co-accused Pratik Agarwal on anticipatory bail, this Hon'ble Court found the possibility of Pratik Agarwal being falsely implicated in view of the family dispute could not be ruled out finally. The petitioner herein admittedly is the manager of the business of Pratik Agarwal. Pratik Agarwal and the petitioner herein were sought to be implicated by the defacto complainant in the allegations of gang rape. On the parity of the reasoning of the order granting anticipatory bail to Pratik Agarwal, it can be said that the petitioner stands on similar footing if not on the same footing as that of Pratik Agarwal.

In such circumstances, considering the period of detention of the petitioner and considering the fact that the police filed charge-sheet and considering the fact that the judgment and order dated February 8, 2022 passed in respect

of Pratik Agarwal in CRM 7652 of 2021 is still valid, we grant bail to the petitioner.

Accordingly, the petitioner be released on bail upon furnishing a Bond of Rs. 10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Metropolitan Magistrate, Kolkata subject to the condition that during bail he shall appear before the learned trial court on every date of hearing and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to comply with the conditions as enshrined hereinbefore, it is open to the trial court to cancel the bail without any further reference to this Court.

The application for bail being **CRM 8047 of 2021** is, thus, disposed of.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)

