

04.04.2022
Serial no. 29
Aloke
Ct. No. 29

CRM 8214 of 2021

In re : An Application for Bail under Section 439 of the Code of Criminal Procedure filed on 07.12.2021 in connection with Jalangi P.S. Case No. 47 of 2020 dated 30.01.2020 under Sections 302/34 of the Indian Penal Code read with Sections 25/27 of Arms Act.

-And-

**In the matter of : Samim Aktarujaman @ Milton
@ Samim Aktarujaman & Anr.**

... ..Petitioners

Mr. Sandipan Ganguly, Advocate

Mr. Angshuman Bera, Advocate

... .. For the Petitioners

Mr. Mashusudan Sur, Id. APP

Mr. Dipankar Paramanick, Advocate

... ..For the State

Mr. G.M. Imrohi, Advocate

... .. For the de facto complainant

Petitioners renew the prayer for bail.

Learned Advocate appearing for the petitioners submits that subsequent to the earlier order of rejection for prayer for bail of the petitioners, two other co-accused were granted anticipatory bail by the Coordinate Bench. He refers to the order dated January 20, 2022 passed in CRM 3534 of 2021 and order dated January 20, 2022 in CRM 3192 of 2021 in support of such contention.

Learned Advocate appearing for the State draws the attention to the materials in the case diary. He submits that the two petitioners cannot claim parity with that of the two other co-accused who were granted anticipatory bail by the Coordinate Bench. He submits that there was proclamation of warrant of arrest issued against both the co-accused in respect of whom orders of anticipatory bail were passed by the Coordinate Bench.

It appears from the materials in the case diary that petitioner no. 1 is named by one of the injured eye witness to

be present who was using the fire arms to shoot. The petitioner no. 1 is, therefore, cannot be said to be in the same footing as that of the other two accused who were granted anticipatory bail by the Coordinate Bench. The prayer for bail of petitioner no. 1 is, thus, rejected.

So far as petitioner no. 2 (Mohur Mondal @ Mohiruddin Mondal) is concerned, however, specific role was not attributed to the injured eye witness or the other eye witness. Attention of the Court to the statement was draws at the time of the submission. Consequently, we are inclined to grant bail to petitioner no. 2 on the ground of parity with that of the other two co-accused who were enlarged on anticipatory bail by the Coordinate Bench.

Accordingly, we direct that the petitioner no. 2 (Mohur Mondal @ Mohiruddin Mondal) shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand only) with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Berhampore, Murshidabad, subject to condition that the petitioner 2 (Mohur Mondal @ Mohiruddin Mondal) shall appear before the learned trial court on every date of hearing until further orders and shall not intimidate witnesses and/or tamper with evidence in any manner whatsoever.

In the event, the petitioner 2 (Mohur Mondal @ Mohiruddin Mondal) fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel the bail of the petitioner 2 (Mohur Mondal @ Mohiruddin Mondal) in accordance with law without further reference to this Court.

The prayer for bail is partly allowed.

CRM 8214 of 2021 is disposed of.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)