

29.08.2022
Sl. No.33
akd/PA
[ALLOWED]

C. R. M. (DB) 2898 of 2022

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 23.08.2022 in connection with Khardah Police Station Case No. 191 of 2022 dated 13.03.2022 under Sections 302/120B of the Indian Penal Code read with Sections 25(1-B)(a)/27 of the Arms Act.

And

In Re: ***Sanjib Pandit @ Bapi Pandit***

... .. Petitioner

Mr. Sekhar Kumar Basu .. Sr. Advocate
Mr. Avik Ghatak
Mr. Sagnik Mukherjee

... .. for the petitioner

Mr. Madhusudan Sur .. Id. Addl. Public Prosecutor
Mr. Dipankar Pramanick

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for about 167 days. It is further submitted there is no direct evidence connecting the petitioner with the alleged murder. Investigation is complete.

Learned Additional Public Prosecutor opposes the prayer for bail and submits one Amit Pandit, brother of the petitioner had been apprehended by local people and made an extra-judicial confession. He stated petitioner had instructed him to murder the deceased. Statement of another witness viz. Manoj Kumar Yadav also shows petitioner had intended to murder the deceased.

We have considered the materials on record. There is no direct evidence against the petitioner. Extra-judicial confession of co-accused viz. Amit Pandit is a weak piece of evidence. It can at its height be used as corroborative evidence against the petitioner (see ***Jayendra***

Saraswathi Swamigal vs. State of T.N.¹). The other material relied on by the prosecution is the statement of one Manoj Kumar Yadav. Reading his statement as a whole it appears he is an accessory before crime. His statement also bristles against attending circumstances of the case. The firearm alleged to be kept in his possession had not been used for commission of crime. In fact, no firearm was recovered from the possession of the witness. Statement of another brother of the petitioner merely express apprehension after the crime and does not implicate the petitioner in the crime. Though these materials may give rise to strong suspicion against the petitioner, whether the said materials would irresistibly point to his guilt requires to be assessed in the course of trial. Petitioner has already been in custody for a period of time and investigation is completed. Apprehension with regard to tampering evidence and winning over witness may be addressed by subjecting the petitioner to strict conditions. In view of the aforesaid facts, we are of the opinion further detention of the accused/petitioner is not necessary and he may be enlarged on bail however, subject to strict conditions.

Therefore, the accused/petitioner, namely **Sanjib Pandit @ Bapi Pandit**, be released on bail upon furnishing 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 Additional Chief Judicial Magistrate, Barrackpore, North 24-Parganas subject to condition that the said petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever and on further condition that the petitioner, while on bail, shall not enter the district of North 24-Parganas except for the purpose of investigation

¹ (2005) 2 SCC 13

and/or for attending court proceedings and shall provide the address where he shall presently reside to the Investigating Agency as well as the court below and shall report to the Officer-in-charge of the police station concerned within whose jurisdiction he shall presently reside once in a week until further orders.

In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

The application for bail, thus, stands **allowed**.

Needless to mention observations in this order are for the purpose of the bail application and shall not have any bearing at the subsequent stage of the proceeding including trial.

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)