

18.02.2022

Court No.32
rpan /03

CRM 8870 of 2021

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

And

In Re : **Sk. Abdul Ramiz @ Sk. Abdul Ramij @ Gullu**
- Petitioner

Mr. Ayan Basu,
Mr. Gautam Banerjee,
Mr. Sourav Bera,
Mr. Sumit Routh
... for the Petitioner.

Mr. Sudip Ghosh,
Mr. Bitasok Banerjee
... for the State.

Mr. Snadipan Ganguly,
Ms. Sharmistha Ghose,
Mr. S. Bhattacharya
... for the De Facto Complainant.

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Bagnan Police Station Case No. 295 of 2021 dated 15.06.2021 under Sections 379/427 of the Indian Penal Code, adding Section 411 of the Indian Penal Code, under Sections 15/16 of the Petroleum & Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962, under Sections 3/4 of the Explosive Substances Act, 1908 and under Sections 3/4 of the Prevention of Damage to Public property Act, 1984 (corresponding to G.R. Case no.1366 of 2021) [Charge-sheet submitted under Sections 379/427 of the Indian Penal Code, adding Sections 411/120B of the Indian Penal Code, under Sections 15/16 of the Petroleum & Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962,

under Sections 3/4 of the Explosive Substances Act, 1908 and under Sections 3/4 of the Prevention of Damage to Public property Act, 1984].

Mr. Basu, learned advocate appearing for the petitioner submits that the petitioner has been roped in on the basis of mere suspicion, as a motor bike of which the petitioner is the owner was seized on the basis of the leading statement of one co-accused, namely Mongal Bhowmik. He further submits that Mongal Bhowmik happens to be a friend of the petitioner, who had taken the said bike prior to the date of the alleged incident for attending the marriage ceremony of his sister-in-law. Drawing our attention to the seizure lists, as annexed to the present application, Mr. Basu argues that the petitioner was arrested on 1st July, 2021 at 19:10 hours and surprisingly within 15 minutes thereafter certain articles were seized from a different place allegedly on the basis of the statement made by the petitioner, who was arrested. According to him, it is an impossibility to recover such materials from a place which is 25 K.M. away from where the petitioner was arrested. He further argues that from the seizure list, annexed at page 32 of the application, it would appear that the place of seizure was from a place which is accessible to all. In view of such discrepancies and since the petitioner is languishing in custody for more than 233 days, he may be enlarged on bail on any stringent condition.

Mr. Ghosh, learned advocate appearing for the State opposes the petitioner's prayer drawing our attention to the statements of

the witnesses including that of the petitioner, as recorded under Section 161 of the Code.

Mr. Ganguly, learned **senior** advocate appearing for the *de facto* complainant submits that the offence was very serious and imminently dangerous since a method was adopted by the racket to siphon off fuel from a pipeline through which fuel is sent at a high pressure. The petitioner also has criminal antecedents and an application for bail of a co-accused, namely, Ajoy Singh has also been turned down by a co-ordinate Bench of this Court.

In reply, Mr. Basu, however, submits that the submissions made by Mr. Ganguly as regards the nature of offence do not stand reflected in the chargesheet, which was submitted upon completion of investigation.

Heard the learned advocates appearing for the respective parties and considered the materials in the case diary.

Prima facie, the discrepancy, as pointed out by Mr. Basu, would certainly be considered and analysed at the stage of trial and in our opinion such discrepancy alone is not sufficient for this Court to come to the conclusion that the entire prosecution case is false at this stage. Considering the seriousness of the offence, its ramifications, the nature of accusations and the possible extent of complicity of the petitioner in the alleged offence, we are not inclined to allow the petitioner's prayer for bail. As such, his prayer for bail is refused at this stage.

The application for bail, being CRM 8870 of 2021, is dismissed.

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.)