

10.11.2022
Sl. No.17
akd
[ALLOWED]

C. R. M. (DB) 3232 of 2022

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 29.08.2022 in connection with Lake Town Police Station Case No. 160 of 2018 dated 21.10.2018 under Sections 386/326/307/34/212/120B of the Indian Penal Code and Sections 25(1)(a)/27 of the Arms Act.

And

In Re: ***Rajesh Nayek & Ors.***

... .. Petitioners

Mr. Soubhik Mitter
Mr. Angshuman Chakraborty
Mr. Shashanka Shekhar Saha

... .. for the petitioners

Mr. Rudradipta Nandy .. Id. Addl. Public Prosecutor
Mrs. Sonali Das

... .. for the State

Pursuant to the order dated 29.09.2022 passed by this court, report with regard to the status of the proceeding is filed.

It is contended on behalf of the petitioners though prayer for bail of the petitioners was rejected earlier, Apex Court vide order dated 04.02.2022 in Special Leave to Appeal (Crl.) No.1106 of 2021 had given leave to the petitioners to renew their prayer for bail, if trial was not concluded within six months. Thereafter, in April, 2022 charge was framed but examination of witnesses commenced only from 05.09.2022. Presently, seven witnesses have been examined and there is no possibility of trial concluding in near future. Prosecution witnesses have not implicated the petitioners. Hence petitioners may be released on bail.

We have considered the evidence of the prosecution witnesses on record.

PW1 is the de-facto complainant. He does not name the petitioners as the assailants. Other witnesses also have not referred to any overt act by the petitioners.

Learned Additional Public Prosecutor opposes the prayer for bail and submits injured witnesses are yet to be examined. Two of the co-accuseds who are on bail have threatened witnesses.

Having considered the materials on record, we note that trial in the present case has not progressed with sufficient speed notwithstanding the desire expressed by the Apex Court in ***Rajesh Nayak & Ors. vs. The State of West Bengal***¹. Though charge was framed in April, 2022, examination of witnesses did not commence before September, 2022. Evidence of the prosecution witnesses recorded till date do not spell out any overt act by the petitioners. Possibility of the petitioners influencing other witnesses may be addressed through appropriate directions. Under such circumstances, we are of the opinion further detention of the accused/petitioners is not necessary and they may be enlarged on bail however, subject to strict conditions.

Therefore, the accused/petitioners, namely **(1) Rajesh Nayak, (2) Ranjan Dhal & (3) Chandan Shetty**, be released on bail upon furnishing bond of Rs.20,000/- (Rupees Twenty thousand only) each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, North 24-Parganas at Barasat subject to condition that the said petitioners 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 petitioners, while on bail,

¹ Special Leave to Appeal (Crl.) No. 1106/2021 Order dated 04.02.2022

shall reside within the State of West Bengal till the conclusion of trial and shall not enter the jurisdiction of North 24-Parganas except for the purpose of attending court proceedings and shall provide the address where they shall presently reside to the Investigating Agency as well as the court below and shall report to the Officer-in-charge of the concerned police station within whose jurisdiction they shall presently reside once in a week until further orders.

In the event they fail to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel their bail automatically without reference to this court.

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

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)