

22.11.2022

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rejected

C.R.M. (DB) No. 3680 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Pukhuria Police Station Case No. 150 of 2018 dated 06.05.2018 under Sections 364/302/201/120B of the Indian Penal Code read with Section 27 of the Arms Act and Section 9(b) of the Indian Explosives Act.
And

In Re : Allauddin @ Bura petitioner

Mr. Satarup Purokasthya
Mr. Amanul Islam
Mr. Sourav Mukherjee
Ms. Jagriti Bhattacharya
... for the petitioner

Mr. Rudradipta Nandy, learned APP
Ms. Sonali Das
... for the State

Mr. Bikram Banerjee
Mr. Arkadeb Biswas
.... for the de facto complainant

Petitioner renews his prayer for bail.

Learned Counsel appearing for the petitioner submits he is in custody for three years. It is also submitted that he has been falsely implicated in the instant case. There is little possibility of trial commencing in the near future.

Learned Counsel appearing for the State opposes the prayer for bail and submits initially F.I.R. was registered against twenty one persons. Nine of the FIR named persons and three others were arrested. During the hearing of bail application of one of the accuseds this Court directed DIG, CID to form a Special Investigation Team (in short "SIT") and take up the investigation. Pursuant thereto investigation was taken over

by CID. Arrested accused persons were discharged and complicity of the petitioner transpired. During such investigation, petitioner was arrested. Co-accuseds are absconding which has resulted in delay.

Learned Counsel appearing for the de facto complainant also opposes the prayer for bail.

We have considered the materials on record. Initially F.I.R. was registered wherein petitioner was not named as an accused. After investigation, case was transferred to CID and the FIR was registered. In the course of trial, some persons were arrested. Subsequently, investigation came to be transferred to SIT. In the course of investigation by the specialized agency, complicity of the petitioner has transpired. It is strongly contended materials against the petitioner, at its height, merely involves disposal of the dead body. This stance is also most improbable as witnesses have claimed that the dead body was found at the place of occurrence. We have considered the aforesaid submission of the petitioner. Statements of witnesses show petitioner was not only involved in disposal of the dead body but was also seen throwing bombs. Delay in the matter is due to abscondance of the co-accuseds. Bail prayer of the petitioner has been rejected earlier.

Hence, we are not inclined to grant bail to the petitioner at this stage.

The application for bail is, thus, rejected.

Court below is directed to take all necessary steps for apprehension of the absconding accuseds and if in spite of

exhaustion of processes his attendance cannot be secured,
declare him as proclaimed offender and commit the case to the
court of sessions in accordance with law.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)