

20.10.2022
03
NB/AGM
(Allow)

CRM (DB) 3771 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with Moyna P.S. Case No. 333 of 2021 dated 14.12.2021 corresponding to G.R Case No. 3251 of 2021 under Sections 147/ 148/ 149/ 341/ 447/ 323/ 354B/ 379/436/506 of the Indian Penal Code.

In the matter of : Totan Maity & Ors. ... petitioners.

Mr. Rajdeep Mazumdar,
Mr. Moyukh Mukherjee,
Mr. Pritam Roy,
Ms. Shyanti Poddar. ...for the petitioners.

Mr. Madhusudan Sur,
Mr. R. D. Nandi,
Mr. Dipankar Paramanick. ..for the State.

On the basis of a written complaint by one Debashree Giri dated 14th December, 2021 alleging an incident that took place on 13th December, 2021, Moyna Police Case No.333 of 2021 was registered under Sections 147/ 148/149/ 341/ 447/ 323/ 354B/ 379/ 436/506 of the Indian Penal Code.

It is pointed out by the learned advocate for the petitioners that they were not named in the First Information Report. After a lapse of about nine months, the Investigating Officer recorded the statements of two villagers where the names of the petitioners had surfaced out and on the basis of such statements, the petitioners were shown arrested in connection with the above-mentioned case.

It is also submitted by the learned advocate for the petitioners that they were victims of political rivalry between the de facto complainant and them.

Learned Public Prosecutor in-charge on the other hand has placed the statements of two witnesses recorded on 8th August, 2022 where the names of the petitioners transpired. We have carefully perused the case diary.

Besides the offences under Section 354B/379/436 of the Indian Penal Code, all other offences are bailable in nature. The investigation of the case has been going on since 14th December, 2021. During the span of almost ten months, the investigating officer has failed to seize any torn wearing apparel of the de facto complainant, though the specific allegation of the de facto complainant was that her modesty was outraged and her saree and blouse were torn. It is also alleged that accused persons and other FIR named accused damaged the dwelling house of the petitioners setting it on fire. However, no seizure has been made even to prima facie show that the building or the building materials were burnt on 13th December, 2021.

Till date, the Investigating Officer was able to seize some burnt jute ropes claiming to be the parts of a bomb. There is absolutely no evidence connecting the accused persons with the seizure. The accused persons were tagged in this case on the basis of a belated statement recorded by the police officer under Section 161 of the Code of Criminal Procedure.

Considering all such aspects of the matter, we are of the view that this is a fit case where the accused persons should be released on bail.

Accordingly, the accused persons are released on bail upon furnishing a bond of Rs.10,000/- with one surety of like amount each, to the satisfaction of the learned Chief Judicial Magistrate, Purba Medinipur with further condition that they shall meet the Investigating Officer once in a fortnight till the completion of the investigation along with the bail bond.

The instant application for bail being, CRM (DB) 3771 of 2022, is thus allowed.

(Bibek Chaudhuri, J.)

(Biswaroop Chowdhury, J.)