

17.11.2022

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allowed

C.R.M. (DB) No. 3917 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Contai Police Station Case No. 265 of 2022 dated 29.06.2022 under Sections 406/409/420/467/468/471/477(A)/120B of the Indian Penal Code.

And

In Re : Ram Chandra Panda petitioner

Mr. Bikash Ranjan Bhattacharya, Sr. Adv.

Mr. Rajdeep Mazumder

Mr. Sourav Chatterjee

Mr. Ranadeb Sengupta

Mr. Moyukh Mukherjee

Mr. Pritam Roy

Mrs. Aishwarya Bazaz

.... for the petitioner

Mr. Saswata Gopal Mukherjee, learned P.P.

Mr. Rudradipta Nandy, learned APP

Mr. Avik Ghatak

..... for the State

Mr. Sabyasachi Banerjee

Mr. Anand Keshri

.... for the de facto complainant

Mr. Bhattacharya, learned senior Counsel appearing for the petitioner submits he is a businessman carrying on business in the town of Contai. He has been falsely implicated in the instant case due to political rivalry. A notice under Section 160 of the Code of Criminal Procedure was issued upon him. Apprehending arrest he approached the learned Sessions Judge in Criminal Misc. Case No. 1117 of 2022 under Section 438 of the Code of Criminal Procedure. During hearing of the application, it was submitted that he had been summoned as a

witness and not an accused. In view of such submission, the application was withdrawn. Soon thereafter, petitioner was arrested and remanded to the police custody. He prays for bail.

Learned Public Prosecutor strongly opposes the prayer for bail and submits the instant case portrays gross abuse of public office by a public servant viz. former Chairman of Contai Municipality. It is alleged the former Chairman had, in utter abuse of his official position, fabricated resolutions of the Board of Councillors incorporating a purported decision to construct stalls at Rangamati Samsan. Pursuant thereto, he illegally received gratification from various persons and allotted plots in their favour. Petitioner was in active collusion with the principal accused and helped him to make wrongful gain.

Learned Counsel appearing for the de facto complainant supports the submissions of the learned Public Prosecutor and submits petitioner is one of the conspirators in the scam.

In reply, learned senior Counsel for the petitioner submits the former Chairman is protected by an order passed by a learned Single Judge of this Court in CRR No. 2322 of 2022.

We have considered the materials on record. Petitioner is not the principal accused. Though F.I.R. was registered in June, 2022, till 28th October, 2022 it appears there was no incriminating material against him. This prompted the investigating agency to contend that during the hearing of the application for anticipatory bail he was summoned as a witness and not an accused. Immediately after withdrawal of the prayer of the pre-arrest bail, two statements were recorded under

Section 161 of the Code of Criminal Procedure stating that the petitioner had supervised the illegal construction of stalls and was dealing with the monies received in connection with such unlawful activity. It is relevant to note that the contract had not been awarded in favour of the petitioner but one Satinath Das Adhikari. The said Satinath Das Adhikari had been arrested during investigation and nothing incriminating against the petitioner transpired from his statement. In view of the aforesaid circumstances, credibility of belated statements of witnesses implicating the petitioner requires to be thrashed out at the appropriate stage of the proceeding. He had been interrogated in the course of police custody and no incriminating material was recovered.

In view of the aforesaid facts particularly the extent of complicity of the petitioner in the crime, we are inclined to enlarge him on bail.

Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.25,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Contai, Purba Medinipur, on further condition that while on bail the petitioner shall meet the investigating agency once in a week until further orders. Petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)