

06.09.2022

Item No.14

Ct.No.01

F.B/gsd

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI**

C.R.M.(DB) 268 of 2022

In Re : An Application for bail under Section 439 of the Code of Criminal Procedure filed in connection with G.R. (RC) – 493 of 2021 arising out of FIR No. RC0562021S0014 dated 27.08.2021 under Section 302 of the Indian Penal Code, 1860.

And

In the matter of : **Bhajan Mandal @ Bhoja**

... Petitioner.

Mr. Arindam Banerjee

Ms. Sriya Basu

... for the petitioner

Mr. Sudipta Kumar Majumder

Mr. Ajoy Kumar Singhanian ... For the CBI.

Party/parties is/are represented in the order of their name/names as printed above in the cause-title.

This is an application under Section 439 of the Code of Criminal Procedure for grant of bail in connection with G.R. (RC) – 493 of 2021 arising out of FIR No. RC0562021S0014 dated 27.08.2021 under Section 302 of the Indian Penal Code, 1860 pending before the Learned Additional Chief Judicial Magistrate, Dinhata, Cooch Behar.

Learned Counsel for the petitioner submits that the petitioner was arrested on 25th of September, 2021 and since then the petitioner is in the correctional home.

Learned Counsel for the petitioner further submits that the petitioner is aged about 72 years and his case is duly covered under the campaigning for release of prisoners by the under Trial Review Committee and the Committee has also forwarded the names in the category of more than 65 years of age.

Learned Counsel for the petitioner further submits that the petitioner has been falsely implicated in the instant case. The petitioner is the permanent resident of West Bengal and there is no chance of absconding of the petitioner.

Learned Counsel for the petitioner also submits that he will appear before the Learned Court below on each and every date of trial.

Learned Assistant Solicitor General (ASG) appearing on behalf of the CBI, submits that this petitioner along with the six others have earlier filed an application for bail being CRM (DB) 43 of 2022 before a Co-ordinate Bench of this Hon'ble Court and the Co-ordinate Bench after perusing the materials on record and considering the statements made by the witnesses under Section 164 of the Cr.P.C. rejected the application for bail.

Learned ASG further submits that there is no change of circumstances to grant bail to the petitioner in the instant case. Learned ASG further submits that investigation has been completed,

charge-sheet has been filed and only the sample of voice recording is to be submitted before the Learned Court below and after submission of the same the case will be committed to the Learned Court of Sessions Judge for commencement of the trial.

Learned ASG prays for rejection of the bail application of the petitioner.

Considering the submissions of the respective parties and perusing the Case Diary, the statements of the witnesses recorded under Section 164 of the Cr.P.C. and the Order passed by the Hon'ble Co-ordinate Bench dated 4th March, 2022, this Court finds that the petitioner has played a vital role in committing the said offence.

In view of the above, this Court is not inclined to release the petitioner on bail at this stage.

The prayer for bail of the petitioner is accordingly **Rejected**.

However, the Learned Additional Chief Judicial Magistrate (ACJM), Dinhata is requested to expedite the process of committing the case after receipt of the documents from the CBI to the Court of Learned Sessions Judge for commencement of the trial as early as possible.

However, it is also made clear that the Learned ACJM, Dinhata shall not grant any unnecessary adjournments to the parties for commitment of the case before the Learned Court of Sessions Judge.

CRM (DB) 268 of 2022 is **disposed of** accordingly.

All parties are to act on a server copy of this order from the official website of this court.

Urgent Prostate certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Krishna Rao, J.)

(Subrata Talukdar, J.)