

28.02.2023

57 & 58
Ct. No. 29
CHC
Allowed

C.R.M.(DB) 382 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with S.C. Case No.215 of 2015, under Sections 120B /302 /307 /323 /325 /326/440 of the Indian Penal Code and under Sections 150/151 of the Indian Railway Act 1989 and under Sections 16/18 of Unlawful Activities (Prevention) 1967, arising out of P.S. Jhargram G.R.P.S. F.I.R. No.05 of 2010.

And

In the matter of: Samir Mahata

..... petitioner

WITH

C.R.M.(DB) 441 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with S.C. Case No.215 of 2015, under Sections 120B /302 /307 /323 /325 /326/440 of the Indian Penal Code and under Sections 150/151 of the Indian Railway Act 1989 and under Sections 16/18 of Unlawful Activities (Prevention) 1967.

And

In the matter of: Ram Mudi & ors.

..... petitioners

Mr. Anirban Das

....for the petitioner
in CRM (DB) 382 of 2023

Mr. Arun Kumar Maiti,
Mr. Arup Dasgupta,
Mr. Amajit De

...for the C.B.I. in CRM (DB) 382 of 2023

Mr. Kaushik Gupta,
Ms. Srimoyee Mukherjee

...for the petitioners
in CRM (DB) 441 of 2023

Mr. Arun Kumar Maiti,
Mr. Manabendra Nath Bandyopadhyay
...for the CBI in CRM (DB) 441 of 2023

Two applications for bail are taken up for analogous consideration emanate out from the same police case.

Petitioners rely upon an order passed by the coordinate Bench granting bail to co-accuseds on November 9, 2022 in C.R.M.9431 of 2019.

Learned advocate appearing for the C.B.I. submits that, there were no delay on the part of the prosecution in conducting the trial. Although charges were framed in the year 2012, the prosecution was able to examine most of the prosecution witnesses, despite, several orders stay of the proceeding for a given period of time, the Presiding Officer not being available for some other period of time and on various other grounds. None of these grounds of delay can be attributed to the prosecution.

He submits that, subsequent to the order dated February 8, 2023 passed in the present proceedings, the prosecution took appropriate steps for the purpose of expeditiously disposing of the trial. Three witnesses were examined subsequent to the order dated February 8, 2023. The next date of trial is fixed on March 3, 2023. Four more witnesses are scheduled to be examined on such date.

He submits that, the next schedule of dates of trial may be fixed consecutively in order to facilitate expeditious disposal of the trial.

Referring to the factual scenario of the case he submits that, petitioners were involved in a terrorist attack of a railway carriage resulting in death of at least 148 passengers. 178 passengers were injured.

He submits that considering the gravity of the offence, the complicity of the petitioners therein, prayer for bail should be rejected.

Co-accuseds standing on the same footing were enlarged on bail by the co-ordinate Bench on November 9, 2022 passed in C.R.M. 9431 of 2019 and C.R.M. 407 of 2021.

In C.R.M. 9431 of 2019 coordinate Bench took into account provisions of Article 21 of the Constitution, various authorities of Hon'ble Supreme Court which are of the view that, even in cases involving offences under the UAPA Act and NDPS Act an undertrial suffering half of the minimum punishment prescribed can be granted bail when, delay occurring was substantially attributable to the prosecution.

The fact that the petitioners before us are standing on the same footing as that of co-accused who were granted bail by the coordinate Bench on November 9, 2022 in C.R.M.9431 of 2019 and C.R.M.407 of 2021 cannot be disputed.

On the parity of the reasoning of the grant of bail to such co-accuseds in the earlier two applications for bail granted by the coordinate Bench, and on the reasoning that the petitioners before us stand on the same footing as that of such co-accuseds who were granted bail we find no ground to refuse the prayer of the petitioners.

We grant bail to the petitioners.

Accordingly, we direct that the petitioners, namely, **Samir Mahata, Ram Mudi, Amiya Mahata, Mahanta Mahato, Sunil Mahata, Manoj Mahata @ Bapi, Bhola Nath Mahata, Laxmi Kanta Roy, Joydev Mahata, Manik Mahata, Jaladhar Mahato and Khagen Mahata** will be released on bail upon furnishing a bond of Rs.20,000/- with two sureties of like amount each, one of whom must be a local, to the satisfaction of the learned Additional Sessions Judge, re-designated Court, Paschim Medinipur with a further condition that they will report to the Officer-in-Charge, Jhargram Police Station once a fortnight until further orders.

The petitioners will also not leave the jurisdiction of Jhargram Police Station, save and except for attending the learned trial court on all the dates specified for hearing.

They will intimate their mobile number and the address where they would be residing to the Officer-in-Charge, Jhargram Police Station immediately.

It is further directed that the petitioners will not tamper with the evidence and/or intimidate the witnesses in any manner whatsoever.

In the event the petitioners fail to comply with the aforesaid directions, without any justifiable cause, the jurisdictional court shall be at liberty to cancel their bail, in accordance with law, without further reference to this Court.

With the aforesaid observations, the application for bail being **CRM (DB) 382 of 2023** and **CRM (DB) 441 of 2023** are disposed of.

It is made clear that the observations which have been made in this order are for the purpose of deciding the bail application and shall have no effect in the trial.

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)