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03.04.2023
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C.R.M. (SB) 54 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure, 1973 filed in connection with Goghat Police Station Case No.356 of 2022 dated 30.12.2022 under Sections 9/39/49(B)/51(1) of the Wild Life Protection Act, 1972 and Section 42 of the Indian Forest Act, 1927 (as amended up to date) corresponding to G.R. Case No.1589/2022 converted to C.R. Case No.41 of 2023;

Ajay Kumar and others
Versus
The State of West Bengal

Mr. Achin Jana,
Mr. Suman Chakraborty,
Mr. Prosenjit Ghosh.
...for the petitioners.

Mr. Madhusudan Sur,
Mr. Manoranjan Mahata.
...for the State.

Learned advocate appearing for the petitioners submits that the petitioners were arrested on or about 29th December, 2022 and since then they are in custody. Additionally, it has been submitted that, pursuant to the direction passed by this Court on 20th March, 2023, the examination of the witnesses are over. However, the prosecution has preferred an application under Section 311 of the Code of Criminal Procedure, which is pending before the learned Magistrate.

Mr, Sur, learned advocate appearing for the State emphasises on the twin conditions referred to in the Act for the purposes of satisfaction of the court regarding grant of bail. Learned advocate submits that since the seizure was effected from

the said persons, they are guilty of the offence and there is every probability that if the persons are released on bail they would repeat the same offence.

I have taken into account the submissions advanced by the learned advocates appearing for the parties and the objection raised by the learned advocate appearing for the State. It would be worthwhile to state that where the conditions relating to bail are stringent, it is the duty of the prosecution to expedite the evidence of the case. The said twin conditions do not create a foundation for unnecessary detention of the accused persons. In this case, an application under Section 311 of the Code of Criminal Procedure has been filed at the instance of the prosecution which do reflect a lack of administration in conducting the prosecution of the case.

Considering the period of detention and the fact that the trial of the case is instituted by following the procedure of warrant cases instituted otherwise than on police report and that there is no possibility of the trial being completed in near future, I am of the opinion that further detention of the petitioners for the purposes of the present case is unwarranted at this stage. As such, the prayer of the bail of the petitioners is allowed.

Accordingly, the petitioner no.1, namely, Ajay Kumar, petitioner no.2, namely, Rakesh Kumar Kanjar and the petitioner no.3, namely, Ajay Kumar shall be released on bail upon furnishing bond of Rs.10,000/- (Rupees Ten Thousand only) each with two local sureties of like amount each, to the satisfaction of the learned

Additional Chief Judicial Magistrate, Arambagh, Hooghly.

If on bail the petitioners shall not leave the jurisdiction of Goghat Police Station without permission of the Inspector-in-Charge/Officer-in-Charge of Goghat Police Station. The petitioners shall inform their place of residence which they would be occupying within the jurisdiction of Goghat Police Station, both to the Inspector-in-Charge/Officer-in-Charge, Goghat Police Station as well as Forest Range Officer, Arambagh Range.

Any change of address should also be informed to the learned ACJM, Arambagh. The petitioners shall meet with the Enquiry Officer/Complainant once in a week for the first three months and thereafter once in a fortnight for the next three months and/or till further orders of this Court. The petitioners may be excused from leaving the jurisdiction of Goghat Police Station only for the limited purpose of attending the court and for the purpose of meeting Enquiry Officer/Complainant (whose office may be situated outside the jurisdiction of Goghat Police Station).

With the aforesaid observations, CRM (SB) 54 of 2023 is allowed.

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

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

(Tirthankar Ghosh, J.)

