

11.04.2023.
36.
Ct.No.28
as
(Rejected)

C.R.M. (DB) 1141 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with CBI, SPE, SCB, Kolkata Case No.RC0562022S008 (RC-8/S/2022) dated 06.04.2022 under Sections 120B/34/302 of the Indian Penal Code (Jhalda P.S. Case No.38 of 2022 dated 14.03.2022).

In the matter of : Satyaban Pramanik.

... Petitioner.

Mr. Debashish Roy, Id. Sr. Adv.,
Md. Sabir Ahmed,
Md. Abdur Rakib.

...for the Petitioner.

Mr. Arun Kumar Maity (Mahanty),
Mr. Amajit De, Spl. P.P.,
Mr. Subrata Santra.

...for the CBI.

Mr. Koustav Bagchi,
Mr. Debayan Ghosh,
Ms. Priti Kar.

...for the de-facto complainant.

Petitioner is in custody for more than a year. He submits he has been implicated in the case out of mere suspicion. Materials collected in course of investigation do not establish complicity of the petitioner in the crime. Prosecution proposes to examine over 100 witnesses. Only 16 witnesses have been examined till date. There is no possibility of trial concluding in the near future. He may be released on bail.

Learned Advocate for the CBI submits report disclosing complicity of the petitioner as well as the status of trial.

Learned Advocate for the de-facto complainant also opposes the bail prayer. He submits petitioner is one of the conspirators and in the event, he is released on bail, witnesses shall be threatened and intimidated. Bail prayer of co-accused viz., Dipak Kandu has been turned down by this Court.

We have considered the materials on record. Instant case involves the conspiracy to murder an elected representative of Jhalda Municipality viz., Tapan Kandu to prevent him from political prominence. Dipak Kandu and his wife contested election from a different political party but were unsuccessful. Apprehending Tapan Kandu may be appointed as Chairman, Dipak Kandu and Naren Kandu (another relation of Tapan Kandu) entered into conspiracy with the petitioner (who is their business associate) to procure hired assassins. Pursuant to the conspiracy, petitioner contacted co-accused Md. Asiq who in turn contacted Kaleber Singh to murder the victim. Investigation reveals telephonic conversations between Naren, petitioner and Asiq in or about time of occurrence. Witnesses have identified Kaleber Singh as one of the persons who shot at the victim while he was taking evening walk. Conspiracies are not hatched in the open and involvement of a conspirator is to be inferred from the attending circumstantial evidence. Close business association between petitioner and co-accused viz., Naren who had motive to commit the crime is a vital incriminating circumstance. This circumstance is further reinforced through CDRs which show frequent telephonic

conversations between petitioner and his associate Naren as well as the hired assassins at the time of occurrence.

Hence, there are *prima facie* materials showing involvement of the petitioner in the conspiracy to murder. Trial is in progress.

It is contended that trial is progressing at a slow pace and keeping in mind the large number of witnesses there is no possibility of the trial concluding within a reasonable time.

Perusal of the report submitted by CBI shows 16 witnesses have already been examined. It is contended other important and vulnerable witnesses are yet to be examined. Petitioner is facing a charge of conspiracy to murder which attracts life imprisonment. Though a large number of witnesses are proposed to be examined, it cannot be said prosecution is lax in examining witnesses.

It is also contended there is vacancy in the trial court. In order to ensure that the petitioner and co-accused do not suffer from unjust and prolonged under trial detention, we direct the Judge-in-charge to record the evidence of the prosecution witnesses till the vacancy in the Court is filled up.

Parties shall co-operate with the trial Judge in that regard.

We also request the prosecuting agency i.e. CBI to formulate a scheme to examine the vital and vulnerable witnesses at the earliest and ensure the conclusion of trial with utmost expedition.

With this observation, application for bail is rejected at this stage.

Parties shall communicate this order to the trial Court for due compliance.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)