

17.05.2023
Sl. No.24
akd
[ALLOWED]

C. R. A. (DB) 119 of 2023

In Re: A petition of appeal under Section 21 of the National Investigation Agency Act, 2008 filed on 02.05.2023 in connection with NIA Case No. 06 of 2022 arising out of NIA Case No. 45/2022/NIA/DLI dated 18.10.2022 under Sections 147/148/149/152/353/332/427/436/307 of the Indian Penal Code, Sections 4/5/6 of the Explosive Substances Act, Sections 25/27 of the Arms Act and Section 3 of the PDPP Act.

And

In Re: ***Mustafa Hussain @ Sharafat @ Sharafat Ali @ Mustafa Ali @ Sarafat Ali***

... .. Appellant

Mr. Anand Kesari
Ms. Sutapa Ghosh

... .. for the appellants

Mr. Bhaskar Prosad Banerjee
Mr. Debasish Tandon

... .. for the NIA

It is submitted on behalf of the appellant that he is in custody for about 147 days. Co-accused have been enlarged on bail in CRA (DB) 83 of 2023. He stands on the same footing with the said co-accused. Hence, he prays for bail.

Learned Advocate for the NIA opposes the prayer for bail and submits witnesses stated appellant was a member of the mob which threw bombs to the members of the other community.

We have considered the materials on record. None of the members of either of the community was injured in the incident. Police personnel had been injured who have since recovered. No firearm/explosive was recovered from the appellant. He stands on the same footing with the co-accused who have been enlarged on bail. Under such circumstances, we are inclined to extend the same privilege to the appellant also on the same terms and conditions.

Therefore, the appellant, namely **Mustafa Hussain @ Sharafat @ Sharafat Ali @ Mustafa Ali @ Sarafat Ali**, be released on bail upon furnishing a bond of Rs.50,000/- (Rupees Fifty thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Metropolitan Magistrate, Calcutta subject to condition that the said appellant shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever and on further condition that the appellant, while on bail, shall not enter the municipal limits of Kolkata except for the purpose of attending court proceedings and shall provide the address where he shall presently reside to the Investigating Agency as well as the court below and shall report to Check Pal Sehrawat, Dy. SP/CIO, National Investigating Agency having office at NIA, 15th floor, NBCC Square, Action Area-III, New Town, Kolkata - 700135 once in a week until further orders.

In the event he fails to comply with any of the aforesaid conditions, the trial court shall be at liberty to cancel his bail in accordance with law without reference to this court.

The appeal is, accordingly, allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)