

14.06.2023

Serial no.01

[Dd]
(Rejected)

CRM (DB) 1988 of 2023

In re : An Application for **Bail** under Section **439** of the Code of Criminal Procedure in connection with **Beliaghata** Police Station Case No. **5** of **2022** dated **22nd January 2022** under Sections **120(b), 395, 397 and 307** of the Indian Penal Code read with Sections **25(1)(B)(a)** and **27** of the Arms Act.

-And-

In the matter of : Subhasish Dasgupta Petitioner

Mr. Biswajit Manna,
Mr. Rupayan Deb,
Ms. Priya Nandy,
Ms. Rituparna Gupta, Advocates
... .. For the Petitioner

Mr. Rudradipta Nandy, Id. APP
Mr. Subroto Roy, Advocates
... ..For the State

Mr. Souvik Mitter,
Mr. Phiroze Edulji,
Mr. Sourab Chatterjee
Mr. Antarikhya Basu,
Mr. Anirban Dutta,
Ms. Madhumita Basak, Advocates
.. ...For the de facto complainant

Petitioner prays for bail.

The application for bail is taken up for consideration subsequent to the order dated June 5, 2023.

On June 5, 2023, the Court was informed that the charges were framed and that the next date fixed before the trial Court was for the purpose of recording evidence of the prosecution.

It appears from the records that, on June 6, 2023, when, the case was taken up by the trial Court, the learned

Judge noted the absence of the defence counsel and, therefore, adjourned the case till July 14, 2023 for evidence of the prosecution. The learned Judge expressed helplessness in recording the evidence of the prosecution in absence of the learned advocate for the defence.

Learned advocate appearing for the petitioner submits that the petitioner is appearing in person. He is an advocate by profession. He was falsely implicated. There are matrimonial disputes between the petitioner and the de facto complainant. The present police case is offshoot to such matrimonial dispute. He refers to two statements recorded under Section 164 of the Criminal Procedure Code. He submits that, taking such statements at the highest, the complicity of the petitioner in the incident of dacoity does appear. No closed circuit television footage was produced.

State and the de facto complainant are represented.

As noted above, charges were framed as against the accuseds including the petitioner. June 6, 2023 was fixed by the trial Court for the purpose of recording evidence of the prosecution. Evidence of the prosecution could not be recorded on such date due to absence of the defence counsel. Advocates for the other parties were present.

We perused the two statements recorded under Section 164 of the Criminal Procedure Code. The two statements cannot be construed to mean that, the petitioner is not complicit in the incident of dacoity with which he charged with. The veracity of the evidence is to be tested once it is led at the trial Court.

The complicity of the petitioner appears in the charges alleged on the basis of the materials available in the case diary.

The petitioner is charged with committing heinous offences.

The police case is dated January 22, 2022. The trial commenced with the defence not permitting expeditious disposal of the trial.

The case diary contains materials to suggest that there are call detail recordings between the petitioner and the other accuseds. There are also materials in the case diary to suggest money trail between the mother of one of the co-accuseds and the petitioner. Petitioner was identified in the test identification parade.

In such circumstances, we are unable to grant bail to the petitioner.

Prayer for bail of the petitioner is **rejected**.

CRM (DB) 1988 of 2023 is **dismissed**.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)