

30.08.2023
Sl. No.27
akd
[ALLOWED]

C. R. M. (DB) 3000 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 24.07.2023 in connection with Rajarhat Police Station Case No.230 of 2022 dated 10.07.2022 under Sections 304/34 of the Indian Penal Code.

And

In Re: ***Hari Das Hati***

... .. Petitioner

Mrs. Sonali Das

... .. for the petitioner

Mr. Ranabir Roy Chowdhury

Mr. Sandip Chakraborty

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about 416 days. It is further submitted there is no direct evidence connecting him with the crime. One of the alleged eyewitness viz. Ranjit Kumar Nath moved this court under Article 226 of the Constitution of India alleging that he had been coerced to implicate the petitioner and others. Accordingly, he prays for bail.
2. Report with regard to involvement of the petitioner is placed on record.
3. Learned Advocate for the State opposes the prayer for bail and submits charge has been framed under Section 302 IPC and date has been fixed for recording evidence on 10.10.2023.
4. We have considered the materials on record. One of the alleged eyewitness viz. Ranjit Kumar Nath approached this court under Article 226 of the Constitution of India alleging he had been coerced to make statement before Magistrate implicating the petitioner and co-accused. Noticing this fact a learned Single Judge of this court transferred the investigation to Criminal Investigation Department

(CID). Thereafter, CID has progressed with the investigation. In course of investigation, one Asis Biswas was examined. He stated three persons assaulted the deceased. He identified two of them in course of Test Identification Parade. Petitioner has not been identified in the Test Identification Parade.

5. Materials collected in course of investigation to show presence of the petitioner at the place of occurrence are based on Call Detail Records (CDRs.) and the tower location of his mobile phone. Neither the CDRs. nor the tower location can be treated as unimpeachable evidence with regard to presence of the petitioner at the place of occurrence. They may be treated as corroborative evidence to the substantive evidence of an eyewitness. But the eyewitness has not identified the petitioner during Test Identification Parade. Trial has just commenced and there is no possibility of its conclusion in the near future. There is no chance of abscondence of the petitioner.
6. Keeping in mind the aforesaid facts, nature of evidence collected against the petitioner and the period of detention suffered by him, we are of the opinion further detention of the accused/petitioner is not necessary and he may be enlarged on bail however, subject to strict conditions.
7. Therefore, the accused/petitioner, namely ***Hari Das Hati***, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, North 24-Parganas at Barasat subject to condition that the said petitioner 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 petitioner, while on bail, shall not enter the district

of North 24-Parganas 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 the Officer-in-charge of the police station concerned within whose jurisdiction he shall presently reside once in a week until further orders.

8. In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.
9. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)