

08.02.2023
Sl. Nos.25 & 26
akd
[ALLOWED]

C. R. R. 4164 of 2022
in
C. R. M. (DB) 2744 of 2022
in
C. R. R. 3219 of 2022

In Re: ***The Hon'ble Court in its own motion***

... .. Petitioner

Mr. Tapas Kr. Ghosh
Mr. Tanmay Chowdhury

... for the petitioners [in CRM (DB) 2744 of 2022]

Mr. Madhusudan Sur .. Id. Addl. Public Prosecutor
Mr. Manoranjan Mahata

... .. for the State

Mr. Saryati Datta
Mr. Chitrak Biswas

... .. for accused-Sk. Sagir @ Sagir Sk.

Mr. Sanjib Kr. Dan
Mr. Chitrak Biswas

... .. for accused-Sk. Sher Ali

It is submitted on behalf of the petitioners that they are in custody for about 280 days. They prayed for bail on the ground of parity with co-accuseds viz. Sk. Sher Ali and Sk. Sagir @ Sagir Sk who have been granted bail by the learned sessions court.

In view of the aforesaid submission, this Court issued Rules to cancel the bail of co-accuseds viz. Sk. Sher Ali and Sk. Sagir @ Sagir Sk.

During hearing, learned Additional Public Prosecutor relies on CCTV footage to establish the presence of the petitioners and co-accuseds at the spot. He also contends stolen materials were recovered from them.

It is relevant to note the CCTV footage was not placed before the sessions court at the time when the said court enlarged the co-accuseds viz. Sk. Sher Ali and Sk. Sagir @ Sagir Sk on bail. Accordingly, order of bail granted to them does not suffer from perversity for non-consideration of the aforesaid electronic records.

Subsequently, the electronic evidence has been placed on record by way of Supplementary charge-sheet. No doubt, such evidence may be pressed into service to prove the prosecution case. But mere development in investigation cannot be a supervening circumstance to cancel the bail of co-accuseds.

Hence, we discharge the Rules issued upon the said co-accuseds viz. Sk. Sher Ali and Sk. Sagir @ Sagir Sk.

Petitioners stand on the same footing with co-accuseds viz. Sk. Sher Ali and Sk. Sagir @ Sagir Sk. They are in custody for a considerable period. There is no possibility of the trial concluding in near future.

In the light of the aforesaid facts, we are of the opinion further detention of the accuseds/petitioners is not necessary.

Therefore, the accuseds/petitioners, namely **(1) Sk. Rafikul Alam @ Murselim @ Kota & (2) Sk. Muslim**, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only) each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Suri, Birbhum subject to condition that the said petitioners 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.

In the event they fail to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel their bail automatically without reference to this court.

The application for bail being CRM (DB) 2744 of 2022, thus, stands **allowed**.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)