

29.09.2023
Sl. No.34
akd
[ALLOWED]

C. R. M. (DB) 3764 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 18.09.2023 in connection with Basirhat Police Station Case No.847 of 2022 dated 19.12.2022 under Sections 302/120B/34 of the Indian Penal Code. (G.R. Case No.5523 of 2022)

And

In Re: ***Mohanta Das***

... .. Petitioner

Mr. Soubhik Mitter
Mr. Litan Maitra
Mr. Kalyan Kumar Bhattacharjee
Ms. Rajnandini Das

... .. for the petitioner

Mr. Satadru Lahiri
Mr. Sabdar Azam
Mr. Jyotirmoy Talukdar

... .. for the de-facto complainant

Mr. Rudradipta Nandy .. Id. Addl. Public Prosecutor
Mr. Subroto Roy

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for more than eight months. It is further submitted petitioner has no connection with the murder of one Sudip Dey @ Papai. Nobody saw him with the deceased or any of the co-accused. Alleged monetary transactions between him and Nilanjan Das were with regard to the funeral expenses of Nilanjan's father. Other transactions relied on by the prosecution do not show transfer of funds from the account of the petitioner to that of co-accused. Trial has not commenced. Accordingly, he prays for bail.
2. Learned Additional Public Prosecutor opposes the prayer for bail and submits petitioner had motive to commit the crime. He wanted to grab the property of the de-facto complainant. Accordingly, he hired killers to murder her son i.e. Sudip Dey @ Papai, the deceased.

Monetary trail shows petitioner had transferred funds through intermediaries to co-accused.

3. Learned Advocate for the de-facto complainant also opposes the prayer for bail and submits petitioner had delayed the trial by preferring frivolous applications including deferment of cross-examination.
4. We have considered the materials on record. Prosecution case is that the petitioner wanted to grab the property of the mother of Sudip Dey @ Papai. Hence, he conspired with co-accused to do away with him. Prosecution primarily relies on statements of witnesses to establish monetary transfers by the petitioner through intermediaries to co-accused.
5. We have gone through the said statements including that of one Nilanjan Das. It is contended on behalf of the defence that said money has been transferred to Nilanjan for funeral expenses. The rival versions require to be thrashed out during trial. Other statements with regard to transfer of funds are unclear and do not unerringly point to the petitioner. That apart, prosecution has also relied on telephonic calls between the petitioner and co-accused. Contents of such conversation are unknown. Recovery of the ring of the deceased from the petitioner was after two months. In view of the time gap, the said recovery by itself may not give rise to an inference of murder.
6. The aforesaid issues have been addressed not to prejudice the prosecution case but to test the defence of the petitioner on the anvil of probability.
7. We are of the opinion petitioner has made out an arguable case during trial. He has roots in the society and there is no chance of abscondence.

8. With regard to criminal antecedents we are informed that an earlier case of murder lodged against the petitioner has ended in acquittal. The other case involves bailable offences. There is no chance of the trial concluding in the near future.
9. Under such circumstances and in view of the period of detention suffered by the petitioner, 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.
10. Therefore, the accused/petitioner, namely **Mohanta Das**, 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 Additional Chief Judicial Magistrate, Basirhat, North 24-Parganas 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.
11. In the event he fails to appear before the trial court without justifiable cause or seeks to delay the proceeding through any other subterfuge, the trial court shall be at liberty to cancel his bail automatically without reference to this court.
12. The application for bail, thus, stands allowed.

(Partha Sarathi Sen, J.)

(Joymalya Bagchi, J.)

