

06.10.2023

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rejected

C.R.M.(DB) No. 3786 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Panchasayar Police Station Case No. 20 of 2020 dated 17.03.2020 under Sections 120B/302 of the Indian Penal Code.

And

In Re : Buddhadeb Das @ Raja Petitioner

Mr. Sourav Chatterjee
Mr. Aditya Tiwari
Mr. Rupesh Kumar Thakur
....for the petitioner

Mr. S. G. Mukherjee, learned PP
Mr. Nuguive Ahmed, learned APP
Ms. Trina Mitra
..... for the State

1. Learned Counsel for the petitioner submits he is in custody for more than three years. It is also contended that there is no direct evidence that he was present at the place of occurrence. There is slow progress in the matter since rejection of bail by this Court.

2. Learned Public Prosecutor opposes the prayer for bail and submits petitioner is a conspirator who had entered into conspiracy with co-accused. Thereafter co-accused went to the spot and brutally murdered the victim. Petitioner and co-accused have resorted to various subterfuges including prayer for deferment of cross-examination to delay the proceeding. Prosecution cannot be held responsible for that. A vital witness

to the conspiracy is yet to be examined. Hence, he opposes the bail prayer.

3. We have considered the materials on record. Statements of the witnesses and other circumstantial evidence viz. CDRs collected during investigation show telephonic conversations between the petitioner and co-accused to commit the crime. Thereafter co-accused went to the spot and brutally assaulted the victim resulting in his death. Bail prayer of the petitioner was rejected earlier in December, 2021. Bail prayer of co-accused have also been rejected on a number of occasions. Prosecution has examined seven witnesses in the meantime. Reasons best known to the defence, they prayed for deferment of cross-examination of witnesses. Consequently witnesses are required to attend court twice over and the case was delayed. Even when witnesses were present, they were not examined as trial Judge was busy. This narration clearly shows prosecution is not at fault for the delay. It was due to defence actions or systematic reasons. There are ample materials showing involvement of the petitioner as a conspirator in the crime. A vital witness in relation to conspiracy is yet to be examined. Hence, it is not appropriate to release the petitioner on bail at this stage lest the said witnesses be won over. It is also important to bear in mind that the offence, if proved, would attract mandatory life imprisonment. Under such circumstances, we are not inclined to grant bail to the petitioner at this stage.

4. The application for bail is, thus, rejected.

5. We request the trial Judge to examine witnesses present in court without fail. Cross-examination of witnesses must be completed on the day they appear in court and no adjournment shall be given to the defence on the score of cross-examination.

6. Parties shall co-operate with the trial in this regard.

7. Needless to mention absence of the incumbent in the trial court would not stand in the way of examination of witnesses who are produced before the court and Judge-in-charge shall proceed with the examination of the witnesses.

8. Parties shall co-operate with the trial and it is expected that the trial shall be conducted with utmost expedition and concluded at an early date.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)