

09.10.2023  
22  
sdas  
allowed

CRM(DB) No. 3842 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Garbeta Police Station Case No. 313 of 2022 dated 02.06.2022 under Sections 406/464/467 of the Indian Penal Code and charge-sheet submitted under Sections 406/408/409/465/467/468/120B/34 of the Indian Penal Code.

And

In Re : Maloy Sarkar @ Moloy Sarkar ..... petitioner

Mr. Ayan Bhattacharya

Mr. Subir Debnath

Mr. Sagar Saha

Mr. Monojit Debnath

....for the petitioner

Mr. Rudradipta Nandy, learned APP

Ms. Sonali Das

.... for the State

1. Learned Counsel for the petitioner submits he is in custody for more than 400 days. It is also submitted that funds under the '*Bengal Abas Yojona*' had not been entrusted to him. Petitioner is a '*jibika sevak*' and was entrusted with geo-tagging of the sites concerned. Panchayet Prodhan who was entrusted with the funds has not been made an accused. He prays for bail.

2. Learned Counsel for the State opposes the prayer for bail and submits petitioner gave incorrect report with regard to the project and played an active role in misappropriation of public funds.

3. We have considered the materials on record. Public funds under '*Bengal Abas Yojona*' allotted to the Panchayet concerned had been misappropriated. For reasons best known to the investigating agency Panchayet Prodhan who was entrusted

with the funds has not been made an accused. Petitioner's role in the crime appears to be incidental. He is in custody for more than 400 days. Accordingly, we are inclined to grant bail to the petitioner.

4. Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Paschim Medinipur, subject to conditions that petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

5. In the event the petitioner fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without further reference to this Court.

6. The application for bail is, accordingly, allowed.

**(Gaurang Kanth, J.)**

**(Joymalya Bagchi, J.)**