

30.11.2023
Sl. No.31
akd
[ALLOWED]

C. R. A. (DB) 348 of 2023

In Re: An appeal under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 filed on 18.10.2023 in connection with Mallarpur Police Station Case No.147 of 2022 dated 03.07.2022 under Sections 302/506/34 of the Indian Penal Code and subsequently charge sheet submitted under Sections 302/506/34 of the Indian Penal Code read with Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

And

In Re: ***Bapan Ghosh & Anr.***

... .. Appellants

Mr. Sekhar Kumar Basu .. Sr. Advocate
Mr. Abir Ranjan Neogi
Mr. Sayan Das

... .. for the appellants

Mr. Sudip Ghosh
Mr. Bitasok Banerjee

... .. for the State

1. It is submitted on behalf of the appellants that they are in custody for about 180 days. It is further submitted allegations against the appellants are general and omnibus. Victim died due to diseased condition of organs. There is little possibility of trial commencing or concluding in the near future. Accordingly, they pray for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits statements of witnesses implicate the appellants in the assault.
3. Nobody appears on behalf of the victim.
4. We have considered the materials on record. Victim was a member of the Scheduled Caste community. He was suspected to be a thief. Local people tied him to a tree and assaulted him. Presence and participation of the appellants have been noted by the witnesses. However, post-mortem report reveals cause of death was due to

diseased organs in the body. It is unclear whether the appellants were aware of the poor health condition of the victim. They are in custody for about 180 days and there is no possibility of trial concluding in the near future. They have strong roots in the society and there is no chance of their abscondence.

5. Under such circumstances, we are of the opinion further detention of the appellants is not necessary.
6. Therefore, the appellants, namely **(1) Bapan Ghosh & (2) Sujit Ghosh**, 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 Additional District & Sessions Judge, 1st Court, Suri, Birbhum subject to condition that the said appellants 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.
7. 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.
8. The appeal is accordingly, allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)