

26.10.2023
Court No.8
Item. 17
(Suvendu/Sandip)

CRM (DB) 4210 OF 2023

In Re: An application for Bail under Section 439 of the Code of Criminal Procedure, 1973 filed in connection with S.C. No. 427/2022 arising out of Rajarhat Police Station Case No. 230 of 2022 dated 10.07.2022 under Sections 304/34 of the Indian Penal Code.

And

In the matter of: Babusona Biswas

.Petitioner.

Mr. Sabir Ahmed,
Ms. Sonali Das

For the Petitioner.

Mr. Swapan Banerjee,
Mr. Suman De

For the State.

1. The petitioner's reliance on an order passed by a Co-ordinate Bench on 30.08.2023 in CRM (DB) 3000 of 2023 whereby a co-accused (Hari Das Hati) was released, is misplaced and cannot be given any credence.

2. The Co-ordinate Bench in that application recorded that there was no conclusive evidence of the petitioner being present at the place of the occurrence and that the petitioner had also not been identified in the Test Identification Parade. The Co-ordinate Bench was also of the view that there was no possibility of the trial being concluded in the near future.

3.The petitioner in the present case has been identified in the Test Identification Parade and the offending weapon has also been recovered from the petitioner's possession.

4.Even if we are to discount the 164 statement given by the concerned witness, which was subsequently subjected in a proceeding under Article 226 of the Constitution, the petitioner being identified in the T. I. Parade cannot be ignored.

5.The Post Mortem Report also adds to our view.

6.We are also informed that consecutive dates for the trial have been fixed on 15th, 16th and 19th December, 2023.

7.Since admittedly 44 witnesses are still to be examined, we direct the learned Additional Sessions Judge, 3rd Court, Barasat to make an earnest effort to complete the trial by 31st May, 2024.

8.The petitioner shall be entitled to renew the prayer for bail if there is a further delay in completion of the trial.

9.CRM (DB) 4210 of 2023 is accordingly rejected and disposed of in terms of the above.

(BIBHAS RANJAN DE, J.)

(MOUSHUMI BHATTACHARYA, J.)

