

28.11.2023
Sl. No.40
akd
[ALLOWED]

C. R. M. (DB) 4259 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 19.10.2023 in connection with Nalhati Police Station Case No.135 of 2023 dated 24.04.2023 under Sections 302/34/120B of the Indian Penal Code. (G.R. Case No.568 of 2023)

And

In Re: ***Md. Nurul Mortoja @ Rajesh Master***

... .. Petitioner

Mr. Ritzu Ghoshal
Mr. Abhra Jena
Mr. Anirban Ghosh

... .. for the petitioner

Mr. Subrato Roy
Mr. Bibaswan Bhattacharjee

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about 133 days. It is further submitted petitioner is a school teacher and has been falsely implicated in the murder. There is no direct evidence to show that he was present at the place of occurrence. Allegation of conspiracy is based on vague suspicion. Statement of witness viz. Azizul Sk. who claimed to have heard the petitioner hatching conspiracy with co-accused viz. Abu Kader Mandal @ Sipon ought to be taken with a pinch of salt as he was also interested in purchasing the land in question. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits petitioner had fraudulently sought to transfer the land of the victim in his name. When the victim protested, he threatened him with murder. Victim had lodged the earlier complaint. He entered into conspiracy with co-accused to commit the murder. He is a person of strong influence and is threatening witnesses.

3. We have considered the materials on record. There is no direct evidence to show that the petitioner was present at the place of occurrence when the victim was murdered. Prosecution states he had motive to commit the crime and he is a conspirator. It is true some materials have been placed on record to show there was dispute between the petitioner and the victim over sale of landed property and petitioner had threatened the victim. To prove the allegation of conspiracy prosecution proposes to rely on one Azizul Sk. who claims to have overheard the conversation between the petitioner and co-accused viz. Abu Kader Mandal @ Sipon to murder the victim. The said Azizul Sk. was equally interested in purchasing the same land. His version, therefore, requires to be assessed as that of an interested witness in the course of trial. There is no telephonic conversation between the petitioner and other co-accused. No money trail between the petitioner and the co-accused has also been traced out to corroborate the statement of the aforesaid interested witness.
4. Keeping in mind the nature of evidence on record with regard to conspiracy and as there is little chance of trial concluding in the near future, we are of the opinion further detention of the accused/petitioner is not necessary. Any apprehension of threatening or intimidating witnesses may be addressed by subjecting the petitioner to strict conditions instead of continuing his undertrial detention.
5. Therefore, the accused/petitioner, namely **Md. Nurul Mortoja @ Rajesh Master**, be released on bail upon furnishing a bond of Rs.25,000/- (Rupees Twenty-five 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, Rampurhat,

Birbhum 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 Birbhum 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.

6. In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.
7. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)