

11.01.2023  
24  
sdas  
allowed

**CRM(DB) No. 4392 of 2022**

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Jamboni Police Station Case No. 43 of 2021 dated 07.05.2021 under Sections 506/302/34 of the Indian Penal Code and Section 3(2)(V) of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act.

And

In Re : Bankim Mahata ..... petitioner

Mr. Mrityunjoy Chatterjee

Mr. Bhaskar Hutait

.....for the petitioner

Ms. Anasuya Sinha

Mr. Pinak Kumar Mitra

..... for the State

Mr. Dhiraj Trivedi, ld. DASG

Mr. Amajit De

.... for the CBI

Learned Counsel for the petitioner submits he is in custody for one year and six months. It is also submitted he has been falsely implicated in the instant case out of suspicion. It is further submitted there is no direct evidence connecting him with the murder. FSL report of the bamboo stick recovered purportedly on the disclosure statement of the petitioner is inconclusive. Accordingly, he prays for bail.

Mr. Trivedi, learned Deputy Solicitor General submits petitioner and co-accuseds had political rivalry with the victim. Accuseds had threatened the victim earlier. They had also planned to construct a road on a temple belonging to the community of the victim. Statements of a witness namely Handu Charan Mahata shows petitioner and co-accuseds admitted their

presence at the spot where the victim had died. These circumstances establish the complicity of the petitioner. Co-accuseds are absconding. Accordingly, he opposes the bail prayer.

We have considered the materials on record. Statements of witnesses disclose rivalry between the victim and the accuseds including the petitioner. However, there is no direct evidence with regard to the murder. Tower location of the mobile phones of the co-accuseds show their presence in or around the place of occurrence. But no tower location report of the petitioner probalising his presence at the place of occurrence. Prosecution has relied on the statement of Handu Charan Mahata in support of its case. His statement was recorded by the local investigating agency after two and half months. There is no independent corroboration of the belated statement of the said witness. Prosecution case with regard to the presence of the petitioner has to be assessed in the aforesaid circumstances during trial. Bamboo stick is said to have been recovered on the disclosure statement of the petitioner. Stick was recovered after two months from a place accessible to all. FSL report is inconclusive. There is little possibility of the trial commencing far less concluding in the near future.

In view of the aforesaid circumstances and the nature of materials collected against the petitioner, we are inclined to grant bail to the petitioner, however, subject to strict conditions.

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, Jhargram, on conditions that he shall not intimidate the witnesses or tamper with evidence in any manner whatsoever and he shall appear before the trial court on every date of hearing and on further conditions that the petitioner shall not enter the jurisdiction of the Jamboni Police Station except for the purpose of attending court proceedings and shall provide the address where he shall presently reside to the investigating officer as well as 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.

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 without further reference to this Court.

The application for bail is, accordingly, allowed.

**(Ajay Kumar Gupta, J.)**

**(Joymalya Bagchi, J.)**