

D/L. 33.
January 30, 2023.
MNS

***Calcutta High Court
In the Circuit Bench at Jalpaiguri***

CRM (DB) No. 2 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed on 02.01.2023 in connection with Sessions Case No. 69 of 2020 arising out of Mal Police Station Case No. 366 of 2019 dated 08.10.2019 under Section 302 of the Indian Penal Code.

In the matter of : Samrat Biswas @ Bhombal
... Petitioner.

Mr. Sandip Dutta,
Mr. Swareep Mondal
...for the Petitioner.

Mr. Tapan Bhattcharjee,
Mr. Arjun Chowdhury
.....for the State.

Learned counsel for the petitioner contends that the petitioner is in custody for a considerably long period, which is about three years and two months. It is further submitted that there are discrepancies in the case, inasmuch as in the FIR it is mentioned that a knife was the probable weapon used for the offence, whereas the seizure list and the subsequent documents indicated that a Dau was recovered from the site. That apart, it is submitted that several witnesses have already been examined and as such there is no scope of the petitioner to influence the witnesses or trial in an adverse manner.

Learned counsel for the State vehemently opposes the prayer for bail and contends that there is ample scope of the petitioner influencing the witnesses and tampering with evidence, thereby influencing the outcome of the trial, if bail is granted.

It is further submitted that the offence alleged is serious and it will not be safe for the other witnesses to enlarge the petitioner on bail at this juncture.

Heard learned counsel for the parties.

It transpires that the trial is already under way. However, the court taking up the case is at present vacant, which negates any chance of immediate disposal of the case. Inasmuch as the probable direction on a different court to decide the case is concerned, the same may not be feasible, since the case is of Mal Bazar and the nearest possible alternative court is in Jalpaiguri, which is submitted to be about 30 kilometers away, which may create inconvenience for the rest of the witnesses to be produced.

From the submission of the State, it is further evident that only six persons out of 19 witnesses have been examined as yet, which all the more creates a possibility of the trial being procrastinated, thereby further curtailing the liberty of the petitioner.

Keeping in view of the fact that the conclusion of the trial is uncertain and that only the charge sheet has been filed and trial has commenced and six witnesses out of 19 have

been examined, we feel that the petitioner is entitled to be enlarged on bail.

Accordingly, the prayer for bail is allowed and the petitioner, namely, Samrat Biswas @ Bhombal, shall be released on bail upon furnishing a bond of Rs.20,000/- (Rupees Twenty Thousand) with two sureties of like amount each, one of whom must be local, to the satisfaction of the Additional Chief Judicial Magistrate, Mal Bazar, subject to the condition that the petitioner shall appear before the trial court on each and every date of hearing and shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade such person from disclosing such facts to the court or to any police officer or tamper with evidence in any manner whatsoever.

This application, being CRM (DB) 2 of 2023 is, thus, disposed of.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)