

31. 11.07.2023
Court
No.1 Tanmoy Ghosh

Allowed

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

CRM (DB) 391 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973, in connection with **Kharibari Police Station Case No. 177 of 2020** dated **11.07.2020** under Sections **326/307/302/120(B)** of the Indian Penal Code, 1860. Charge-sheet No. 233/2020 dated 05.10.2020. Sessions Case No.9 of 2021.

And

In the matter of: - **Sri Koushik Chaki**

...petitioner.

Mr. Sandip Mandal, Adv.,
Mrs. Swarnali Ghosh, Adv.

...for the petitioner.

Mr. Aditi Shankar Chakraborty, Ld. APP,
Mr. Aniruddha Biswas, Adv.

...for the State.

Heard learned Advocate for the petitioner and learned Advocate for the State at length.

We have perused the entire material in the case diary placed before us. We have also considered the evidence of the witnesses as recorded so far before the learned trial Court. We are surprised to note that the prosecution witnesses, who have been examined so far and who have not supported the prosecution case, have not been declared hostile may be on account of the prudence or lack of it of the learned Public Prosecutor-in-Charge who is conducting the trial before the

learned trial Court. We have thus every reason to believe that before the learned trial Court specially in Sessions Case No.09 of 2021, the conduct of the learned Public Prosecutor-in-Charge raises a serious question with regard to his competency, may be with regard to his integrity also.

Such being the position and also keeping in mind the entire scenario as discussed hereinabove, we direct the department to forward a copy of this order along with copy of Annexure "P-3" i.e. page no.17 to page no.24 of the instant bail application, to learned Legal Remembrancer, Writers' Building, Kolkata, for his appraisal as to how the learned Public Prosecutor-in-Charge is conducting the trial in Sessions Case No.09 of 2021 before the learned Additional Sessions Judge, 1st Court at Siliguri. The department is further directed to forward a copy of this order to the learned District Public Prosecutor, Darjeeling, for his information and record.

However, considering the fact that the present accused/petitioner is languishing in Jail Custody for a considerable length of time and also considering the fact that the witnesses, as recorded so far in their respective examinations-in-chief, have not said much against the present accused/petitioner, we are inclined to allow the prayer for bail.

Accordingly, we direct that the petitioner, namely, **Sri Koushik Chaki**, shall be released on bail upon furnishing a bond of Rs. 20,000/- with two registered sureties of Rs.10,000/-

each, to the satisfaction of the learned Additional Sessions Judge, 1st Court at Siliguri, on condition that the present accused/petitioner shall appear before the learned trial Court on each and every date of substantive hearing and in the event the present accused/petitioner fails to appear before the learned trial Court even on a single date, the learned trial Court is hereby directed to issue non-bailable warrant of arrest as against the present accused/petitioner.

In the event the petitioner fails to adhere to any of the conditions stipulated above without any justifiable cause, the trial Court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this Court.

It is, however, made clear that we have allowed the prayer for bail in spite of the fact that the learned Advocate for the State before us has raised vehement objection against the prayer for bail.

The application for bail being CRM (DB) 391 of 2023 is accordingly allowed and disposed of.

(Arijit Banerjee, J.)

(Partha Sarathi Sen, J.)