

22.11.2023

Serial no.3

Court No.1

(CHC)

(Rejected)

*Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side*

CRM (DB) 656 of 2023

*In re : An Application for **Bail** under Section **439** of the Code of Criminal Procedure in connection with **Dinhata** Police Station Case No. **341 of 2021** dated **25.06.2021** under Sections **302/34** and subsequently it was transferred to Central Bureau Of Investigation and the same was registered as RC 0562022S0010 dated 11.04.2022 under Sections **302/34** of the Indian Penal Code.*

-And-

In the matter of : **Pranab Barkait @ Sujan Barkait
@ Goja & ors.**

... .. Petitioners

Mr. Pronojit Roy, Advocate

... .. For the Petitioners

Mr. Sudipta Kumar Mazumdar, Ld. D.S.G.I.

Mr. Ajoy Kumar Singhanian, Advocate

Mr. Sudip Kumar Paul, Advocate

*... ..For the **C.B.I.***

Petitioners pray for bail.

Learned advocate appearing for the petitioners submits that, the alleged incident occurred on May 4, 2021 with the First Information Report being registered only on June 25, 2021. No Post Mortem Report was done on the deceased. Police filed charge-sheet on October 17, 2022. Charges were framed on September 5, 2023. Charge-sheet speaks of 75 prosecution witnesses. The petitioners are in custody for more than 490 days. In view of the number of prosecution witnesses, there is

hardly any possibility of the trial ending any time soon. He submits that, petitioners were falsely implicated in view of their affiliation of a particular political ideology.

Learned Deputy Solicitor General, appearing for the Central Bureau of Investigation (C.B.I.) submits that, C.B.I took over investigating pursuant to an order passed by the Division Bench in a Public Interest Litigation. Such order was passed on August 19, 2021 He submits that, subsequent to C.B.I. taking over the investigations, witnesses were examined. He draws the attention of the Court to the materials in the Case Diary as well as the memo of evidence. He submits that, although, no Post Mortem was conducted, experts on the subject were consulted by the C.B.I who opined that, the death was due to the injury suffered by the deceased from the arrow that pierced the right eye of the deceased. He draws attention of the Court to the statements recorded under Section 164 as well as 161 of the Criminal Procedure Code and submits that petitioners were involved in the incident. Moreover, the ankle of the victim was hacked apart from the victim suffering arrow injury on the right eye. Moreover, he submits that between the petitioners there are at least eight criminal cases pending involved *inter alia*, the provisions of the Explosive Act. He submits that, some of the other police case that are pending as against the petitioners, involve death penalty.

We considered the materials in the Case Diary and the respective submissions of the learned counsel appearing for the parties.

We find that, the First Information Report was registered on June 25, 2021 in respect of an incident occurring on May 4, 2021. Police filed charge-sheet on October 17, 2022 and charges were framed on September 5, 2023.

The Case Diary discloses that, there are at least two statements recorded under Section 164 of the Criminal Procedure Code, subsequent to the C.B.I taking over investigation, implicating all petitioners before us, in the incident of murder.

There are criminal antecedents of the petitioners which cannot be overlooked. Between them, there are at least eight First Information Report involving *inter alia*, the provisions of the Explosive Act.

Considering the gravity of the offence and involvement of the petitioners therein as appearing from the materials in the Case Diary, we are unable to grant bail to the petitioner.

CRM (DB) 656 of 2023 is rejected.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)