

25.01.2024.
24.
Ct.No.28.
as
(Allowed)

C.R.M. (DB) 170 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Jamuria P.S. Case No.181 of 2023 dated 29.04.2023 under Sections 302/201 of the Indian Penal Code and Sections 25/27 of the Arms Act .

In the matter of : **Suvam Roy @ Suvam Roy @ Riyon.**
.... Petitioner.

Mr. Ayan Bhattacharjee,
Mr. Kunal Ganguly,
Ms. Ritu Das,
Mr. Kaustav Banerjee.

...for the Petitioner.

Mr. Bidyut Kr. Roy,
Mr. Antarikhya Basu.

...for the State.

1. Petitioner submits he is in custody for over 234 days. He contends he is in no way connected with the murder. Alleged recovery of firearm was from the house of co-accused viz., Prakash Thakur. There is nothing on record to show the motorcycle registered in the name of the mother of the petitioner was used in the murder or recovered on the showing of any of the accused. Accordingly, he prays for bail.

2. Learned Advocate for the State opposes the bail prayer. He contends co-accused viz., Raghu Karmakar has criminal antecedents. He had entrusted stolen booty with the deceased who misappropriated it. As a result, Raghu Karmakar in collusion with petitioner and others had committed the murder. On showing of the petitioner and others firearm was recovered from the residence of Prakash Thakur. Motorcycle standing in the name of the mother of the petitioner was used to commit

the murder. It was identified by co-accused Raghu Karmakar. CDRs show telephonic conversation between petitioner and co-accused, Raghu, on the day of murder.

3. We have considered the materials on record. Allegation against the petitioner is one of conspiracy. To establish the charge, prosecution has essentially relied on three circumstances:-

- i) On the showing of the petitioner and others firearm used to commit the murder was recovered;
- ii) Red coloured motorcycle bearing registration No.WB 38AK 0036 was used by co-accused viz., Raghu Karmakar to commit the murder. The said motorcycle stands in the name of the mother of the petitioner and was identified by Raghu Karmakar;
- iii) CDRs shows frequent telephonic conversations between petitioner and co-accused Raghu Karmakar on the day of occurrence.

4. We have considered the aforesaid circumstances in the light of the materials collected during investigation. We have gone through the statements of the petitioner recorded during interrogation. None of the statements show the petitioner made a disclosure which led the police to the house of co-accused viz., Prakash Thakur from where the firearm was recovered.

5. In this backdrop whether presence of the petitioner at the place of recovery would amount to recovery on his showing requires to be assessed during trial.

6. Statement of witness does not disclose the registration number of the motorcycle which was used by co-accused Raghu Krmakar on the day of murder. One is left wondering how the investigating agency zeroed on the motorcycle standing in the name of the petitioner's mother as the offending vehicle and thereafter, allegedly got it identified by the co-accused. This in our estimation is a weak piece of evidence. CDRs merely show telephonic conversations between petitioner and co-accused contents whereof are unknown.

7. Under such circumstances, we are of the opinion the evidence collected against the petitioner on the charge of conspiracy is sketchy and accordingly he may be released on bail subject to conditions.

8. Accordingly, the petitioner viz., **Suvam Roy @ Suvam Roy @ Riyan** 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, Paschim Bardhaman subject to condition that he 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 remain outside the jurisdiction of Jamuria Police Station except for the purpose of court proceeding and shall provide the address where he shall reside to the Investigating Officer as well as the court below and report to the Officer-in-charge of the Police

Station concerned within whose jurisdiction he shall reside once in a week until further orders.

9. In the event petitioner fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

9. This application for bail is, thus, disposed of.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)