

08.02.2024.
39.
Ct.No.28
as
(Rejected)

C.R.M. (DB) 410 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Ballygunge D. D. P.S. Case No.01 of 2022 dated 08.01.2022 under Sections 120B/387/395/397 of the Indian Penal Code.

In the matter of : **Rishav Raj @ Rishav Kumar Raj @
Rishav Keshry @ Rahul Raj.**
... Petitioner.

Mr. Ayan Bhattacharyya,
Mr. K. K. Tiwari,
Mr. K. K. Mukherjee,
Mr. A. K. Saha,
Mr. P. singh,
Mr. Rahul Das.

...for the Petitioner.

Mr. Partha Pratim Das,
Mr. Palash Majhi.

...for the State.

1. Petitioner is in custody for one year and ten months. He submits he is in no way connected with the dacoity. He was not present at the time of dacoity and no incriminating articles have been recovered. Trial has been delayed due to absence of the Special Public Prosecutor. Accordingly, he prays for bail.

2. Learned Advocate for the State opposes the bail prayer. He contends petitioner is a member of an interstate gang of dacoits. Some of them are implicated in cases in different States. Petitioner met the principal offender in a hotel at Kolkata. Thereafter, he conducted reconnaissance of the house where the dacoity was conducted. He had interviewed local people. Those people identified the petitioner and

disclosed his role in the conspiracy to commit dacoity. Date for recording prosecution evidence is fixed on 22nd March, 2024.

3. We have considered the materials on record. Petitioner is a member of a gang of dacoits operating in different States. Some of its members have cases pending in different States. Initially, due to their non-appearance trial was delayed. This Court had to intervene and direct that attendance of the co-accused who are facing trial in other state via video linkage. Thereafter, the matter progressed, charges were framed and date has been fixed for recording evidence.

4. In this backdrop, absence of Special Public Prosecutor though undesirable cannot be held to be the sole ground for delay.

5. On merits, we note petitioner was involved in the conspiracy to commit dacoity. He had met the other members of the gang, conducted reconnaissance of the house which was burgled. He does not stand on the same footing with co-accused viz., Sourav Paliwar whose bail prayer was allowed since materials collected during investigation against him were sketchy. There is every possibility the petitioner may abscond if he is released on bail.

6. Accordingly, the prayer for bail of the petitioner is rejected.

7. We direct the trial court as well as the prosecution to ensure that the witnesses are positively in the course of next schedule. No adjournment shall be given to any of the parties

and witnesses if in attendance shall not be turned away on the ground of resolution of the local Bar.

8. Parties shall co-operate with the trial court and communicate this order for due compliance.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)