

21.03.2024
Sl. No.22
akd
[ALLOWED]

C. R. M. (DB) 815 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 07.03.2024 in connection with Amdanga Police Station Case No.665 of 2023 dated 17.11.2023 under Sections 302/34/120B of the Indian Penal Code and Sections 3/4 of the Explosive Substances Act. (G.R. Case No.2719 of 2023)

And

In Re: **Kazi Anowar Hossain @ Bablu & Anr.**
... .. Petitioners

Mr. Surajit Basu
Ms. Ananya Das Gupta
Mr. Pritam Chakraborty
... .. for the petitioners

Mr. Suman De
... .. for the State

1. Pursuant to our earlier direction, Investigating Officer is personally present before this court with the report. His presence is noted and dispensed with.
2. Report states the driver was interrogated but did not state the deceased had named the assailants in his dying declaration.
3. It is submitted on behalf of the petitioners that the Investigating Agency is seeking to cover the real offenders who were named in the FIR and has falsely implicated them in the crime. Accordingly, they pray for bail.
4. Learned Advocate for the State opposes the prayer for bail and submits CCTV footage shows one Ali Akbar Mondal @ Gunda had hurled bomb at the victim. He also suffered bomb blast injuries. Call Detail Records (CDRs) show petitioners had regular telephonic conversations with the principal accused i.e. Ali Akbar Mondal @ Gunda.

5. We have considered the materials on record. In the FIR, one Toyeb Ali Mondal, Anowar Hossain Mondal, son of Toyeb, Rahamatulla Mondal @ Pappu and Alamgir Sk. @ Abter @ Khancha had been named as accused. It was alleged therein that the victim had suffered bomb blast injury and on his way to hospital, he had disclosed the names of the aforesaid persons to his driver. Subsequently, the driver came out with a different version. He stated the victim was unable to speak vehemently.
6. Dichotomy in the prosecution case gives an impression either the FIR was fabricated to implicate innocent persons or the driver, for reasons best known to him, has resiled from his earlier stance. This casts serious aspersion on the credibility of the case. Petitioners are not the principal accused whose image appears in the CCTV footage as one throwing bomb at the victim. Their involvement is founded on Call Detail Records (CDRs) showing telephonic conversations (*contents whereof are unknown*) between them and the principal accused. Investigation is complete. In view of the scanty materials on record implicating the petitioners in the crime, we are of the opinion further detention of the petitioners is not necessary.
7. Therefore, the petitioners, namely **(1) Kazi Anowar Hossain @ Bablu & (2) Samsuddin Mondal @ Abbas**, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only) each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, North 24-Parganas at Barasat subject to condition that the said petitioners 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.

8. In the event they fail to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel their bail automatically without reference to this court.
9. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)