

29.04.2024
Sl. No.21
akd
[Rejected]

C. R. M. (DB) 923 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 29.02.2024 in connection with Gangarampur Police Station Case No.150 of 2021 dated 01.05.2021 under Sections 302/34 of the Indian Penal Code read with Section 3(2)(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (correspondent Special Case No.20 of 2022 and now RC 0562021S0044CBI/SCB/KOL).

And

In Re: ***Biplab Sarkar & Ors.***

... .. Petitioners

Mr. Kaushik Choudhury
Ms. Busra Khatun

... .. for the petitioners

Mr. Amajit De

... .. for the CBI

1. It is submitted on behalf of the petitioners that they are in custody for about one year and eleven months. It is further submitted petitioners have been falsely implicated due to political rivalry. Proceeding before the trial court was stayed by the order of the Hon'ble Apex Court in Transfer Petition (Criminal) Diary No. 51357/2023. Accordingly, they pray for bail.
2. Learned Advocate for the CBI submits report. From the report it appears sixteen out of forty-six witnesses have been examined. Proceedings are stayed by the Hon'ble Apex Court in Transfer Petition (Criminal) Diary No. 51357/2023. Date of hearing of the matter in the Apex Court has been fixed after Summer vacation.
3. We have considered the materials on record. Statements of witnesses recorded before Magistrate show involvement of the petitioners in the assault. Deceased suffered multiple injuries and died. Bail prayer of the petitioners was rejected earlier on merits. Sixteen witnesses have already been examined. It cannot be said

that prosecution is lax in conducting trial. Presently proceedings are stayed before the Hon'ble Apex Court.

4. However, in view of gravity of the offence which if proved would attract mandatory life imprisonment and as vulnerable eyewitnesses are yet to be examined, we are not inclined to grant bail to the petitioners at this stage.
5. The application for bail is thus rejected.
6. It is open to the petitioners to seek vacating and/or variation of the stay order before the Hon'ble Apex Court, if so advised.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)