

15.04.2024
Sl. No.19
akd
[Rejected]

C. R. M. (DB) 1028 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 13.03.2024 in connection with Titagarh Police Station Case No.548 of 2020 dated 05.10.2020 under Sections 302/34/120B of the Indian Penal Code read with Sections 25/27 of the Arms Act.

And

In Re: **Anish Kumar Thakur @ Anil Kumar Thakur @ Vivek Mondal**
... .. Petitioner

Mr. Phiroze Edulji
Mr. Mrityunjoy Chatterjee
Mr. Arindam Poali

... .. for the petitioner

Mr. Gunjan Kumar Singh
Mr. Prakash Mishra
Ms. Sweta Singh

... .. for the de-facto complainant

Mr. Madhusudan Sur .. Id. Addl. Public Prosecutor
Mr. Dipankar Paramanick

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for more than three years. It is further submitted evidence collected against the petitioner is weak. It is contended prosecution case is inconsistent. First charge sheet stated petitioner was riding pillion on a motorcycle driven by co-accused viz. Sujit Kumar Roy. But in the subsequent charge sheet name of the driver was stated as Amar Yadav. Test Identification Parade witness is not a local resident. Charge is yet to be framed. Accordingly, he prays for bail.
2. Learned Additional Public Prosecutor opposes the prayer for bail and submits petitioner and two others had fired at the victim. As a result, victim died. Petitioner has been identified by eyewitnesses during Test Identification Parade examination. Incriminating articles

have also been recovered from him. Co-accused who were enlarged on bail do not stand on the same footing with the petitioner. Delay in the matter is on the ground two accused persons viz. Roshan Kr. Yadav @ Tatya and Manish @ Nanki @ Badal are in detention at Kendriya Adarsh Kara, Beur, Patna.

3. Learned Advocate for the de-facto complainant also opposes the prayer for bail.
4. We have considered the materials on record. Petitioner is one of the sharp shooters. He was identified by two eyewitnesses.
5. Having given anxious consideration to the aforesaid submissions we note prosecution case is consistent with regard to the petitioner. Both the eyewitnesses claimed the petitioner had shot at the victim. Hence, we are of the opinion there are ample materials implicating the petitioner as one of the principal accused in the case. Offences, if proved, would attract mandatory life imprisonment.
6. With regard to delay we note two co-accused viz. Roshan Kr. Yadav @ Tatya and Manish @ Nanki @ Badal are detained in connection with other cases at Kendriya Adarsh Kara, Beur, Patna. As a result, they were not produced and trial could not progress. This clearly shows that petitioner is a part of the gang which has interstate criminal records.
7. We are informed co-accused viz. Roshan Kr. Yadav @ Tatya and Manish @ Nanki @ Badal who were detained at Kendriya Adarsh Kara, Beur, Patna are being produced before the trial Judge today.
8. In view of the aforesaid facts, we are not inclined to grant bail to the petitioner at this stage.
9. The application for bail is thus rejected.

10. We direct the trial court to take immediate steps for consideration of charge at the earliest. In the event, charge is framed, the vital eyewitnesses shall be examined at the earliest.

11. Parties shall communicate a copy of this order to the trial court for due compliance.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)