

15.04.2024
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allowed

CRM (DB) No. 1033 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Beliabera Police Station Case No. 41 of 2015 dated 04.07.2015 under Sections 406/409/420/467/120B of the Indian Penal Code and charge-sheet submitted under Sections 406/420/467/120B of the Indian Penal Code.

And

In Re : Sabyasachi Ghosh & Anr. petitioners

Mr. Prabir Kumar Mitra
Mr. Pinak Kumar Mitra
Ms. Subhanwita Ghosh

....for the petitioners

Mr. Uttam Kumar Roy

.... for the State

1. Learned Counsel for the petitioners submits they are in custody for 50 days. They submit they are *bona fide* loanees and had pledged gold. Co-accused, similarly circumstanced with them have been enlarged on bail. Accordingly, they pray for bail.

2. Learned Counsel for the State opposes the bail prayer.

3. We have considered the materials on record. Petitioners stand on the same footing with co-accused who have been enlarged on bail. Their further detention is not necessary for progress of investigation. Under such circumstances, we are inclined to grant bail to the petitioners.

4. Accordingly, we direct that the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- each with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial

Magistrate, Jhargram, subject to conditions that petitioners shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

5. In the event the petitioners fail to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel their bail in accordance with law without further reference to this Court.

6. The application for bail is, accordingly, allowed.

7. While hearing the matter we were distressed to note that the prosecution was represented by a lawyer namely Uttam Kumar Roy who himself claimed to have no experience of appearing in criminal matters in the High Court. He was even unable to even respond to simple queries viz. under what provision Public Prosecutors are appointed. Poor assistance by the State Counsels adversely affect the interest of the State namely effective administration of criminal justice as well as the interest of the victims. It is expected that the lawyers empanelled as Public Prosecutors shall have adequate experience and expertise in criminal law. We sadly note absence of adequate experience and expertise in the Counsel representing the State in this case. We express our deep anguish in this regard and refer the matter to the Legal Remembrancer for necessary remedial steps.

8. Copy of the order be sent to the Legal Remembrancer for intimation and necessary action.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

