

41.
Court
No.28

10.06.2024

(Tanmoy)

Allowed

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (DB) 1606 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973, in connection with **Santipur Police Station Case No.386 of 2020** dated **01.09.2020** under Sections **341/326/307/34** of the Indian Penal Code. Subsequently added Sections **302/120B** of the Indian Penal Code and Sections **25/27** of the Arms Act, 1959.

And

In the matter of: - **Ashok Roy @ Ashoke Roy @ Ashok Ray**
...petitioner.

Mr. Saryati Datta, Adv.,
Mr. Kalyan Kr. Bhattacharjee, Adv.,
Mr. Ltan Maitra, Adv.,
Mr. C. Biswas, Adv.
...for the petitioner.

Mr. Arijit Ganguly, Adv.,
Ms. Suruchi Saha, Adv.
...for the State.

The petitioner is one of several accused persons in a case registered under Sections 341/326/307/34 of the Indian Penal Code. Subsequently Sections 302/120B of the Indian Penal Code and Sections 25/27 of the Arms Act, 1959, were added.

The petitioner says that he has no connection with the alleged crime. It was Bharat Roy who fired at the victim, who suffered grievous injury and succumbed thereto subsequently. Charge-sheet was submitted upon conclusion of investigation, in November, 2020. Till date, charge has not been framed. There is no possibility of an early conclusion of the trial. The petitioner is in custody for about two years and six months.

Learned Advocate for the State vehemently opposes the prayer for bail. He says that July 12, 2024, has been fixed as the date for framing of charge. The petitioner is named in the 'dying declaration' of the victim. The offence is of heinous nature and very grave. No leniency should be shown to the petitioner.

We have considered the material on record and the facts and circumstances of the case. In the 'dying declaration', the victim mentions the presence of one Ashoke Roy at the place of occurrence but does not name him as the person who committed any overt act. The victim specifically stated that it was Bharat who shot him from the front in an attempt to kill him. Further, the petitioner has been in custody for a substantial period of time. Charges should have been framed by now and trial should have made substantial progress. That is not the case. It is anybody's guess as to when the trial would conclude.

In view of the aforesaid and keeping in mind that while an alleged offender should be detained in custody in an appropriate case, the concept of personal liberty under Article 21 of the Constitution should not be forgotten, in the facts of this case, we are inclined to allow the petitioner's prayer for bail.

Accordingly, we direct that the petitioner, namely, **Ashok Roy @ Ashoke Roy @ Ashok Ray** shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand), with two registered sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Ranaghat, Nadia, subject to condition that the petitioner shall appear before the Trial Court on each and every date of substantive hearing subject to the provisions of

Section 317 of the Code of Criminal Procedure, 1973 and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to adhere to any of the conditions stipulated above without any justifiable cause, the Trial Court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this Court.

The application for bail being CRM (DB) 1606 of 2024 is accordingly disposed of.

Criminal Section is directed to supply urgent photostat certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)