

10.07.2024
Item no. 19.
Court No.28.
AB
(Allowed)

CRM (DB) 1960 of 2024

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure in connection with Sankrail Police Station Case No.1049 of 2022 Dated 11.10.2022 under Sections 302/120B of the Indian Penal Code read with Section 25(1B)(a) of the Arms Act

And

In the matter of : Goutam Khotel

.....Petitioner.

Mr. Ashok Das,
Mr. Sourav Mukherjee,
Ms. Hasi Saha

.....for the Petitioner.

Mr. Anand Keshri,
Mr. Shovan Gazi

.....for the State.

The petitioner says that he is in custody for one year and four months. He says that he has been falsely implicated. The victim, it was initially seen, was overrun by a motorcar. He succumbed to that injury. At the time of post mortem, it was found that he had also been shot at. A cartridge was recovered. The petitioner says that there is no eyewitness to the incident. The entire prosecution case is based on circumstantial evidence. He should be granted bail.

Learned Advocate for the State, while opposing the prayer for bail, draws our attention to the relevant material in the case diary. We have seen a ballistic report. It says that the cartridge pertains to a bullet that was shot from a firearm, which was recovered on the basis of the statement made by the

petitioner. The petitioner also has antecedents. Witness action is scheduled to begin on July 18, 2024. The prayer for bail should not be allowed, at this stage.

We find that there are 26 charge sheet named witnesses. There is no certainty that the trial will conclude at an early date. There is also no eyewitness to the alleged incident. The prosecution bases its case on circumstantial evidence. The petitioner has been in custody for about one year and four months.

On an overall assessment of the facts and circumstances of the case and the material on record and the possible extent of complicity of the petitioner in the alleged offence, as also keeping in mind that the petitioner has been in custody for quite some time, we are inclined to allow the petitioner's prayer for bail.

Accordingly, we direct that the petitioner, namely **Goutam Khotel** shall be released on bail upon furnishing a bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Howrah, and on further conditions that he shall not leave the jurisdiction of the concerned police station and shall report to the Officer-in-Charge of the concerned police station once in a fortnight until further orders.

The petitioner 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 and/or commit any cognizable offence in any manner whatsoever.

In the event the petitioner fails to adhere to any of the conditions stipulated above without 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 is, accordingly, allowed.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)