

05.09.2024
Sl. No.67
akd
[ALLOWED]

C. R. M. (DB) 2113 of 2024 [ASSIGNED]

In Re: An application for bail under Section 439 of the Code of Criminal Procedure corresponding to Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed on 03.07.2024 in connection with Kandi Police Station Case No.600 of 2023 dated 04.10.2023 under Sections 420/465/466/467/468/469/471/472/473/474/120B of the Indian Penal Code. (G.R. Case No.1885 of 2023)

And

In Re: *Nilotpal Mondal*

... .. Petitioner

Mr. Milon Mukherjee .. Sr. Advocate
Mr. Sandipan Ganguly .. Sr. Advocate
Md. Hafiz Ali
Mr. Arkadev Bhattacharya
Mr. Ayan Mitra

... .. for the petitioner

Mr. Debasis Roy .. Id. Public Prosecutor
Mr. Rudradipta Nandy .. Id. Addl. Public Prosecutor
Ms. Sanjana Saha

... .. for the State

1. It is submitted on behalf of the petitioner that he is a practicing lawyer of Kandi court. He alleges he did not play any role in preparing or using the forged order on the strength of which one Lalu Sk. was enlarged on bail. It is further submitted name of the petitioner did not transpire in the first charge sheet. Only in the second charge sheet he was shown as an accused. Petitioner had cooperated with the investigation and is in custody for about 178 days. Investigation is complete. Offences are triable by Magistrate. There is no possibility of trial concluding in the near future. Accordingly, he prays for bail.
2. Learned Additional Public Prosecutor opposes the prayer for bail and submits petitioner even now is an office bearer of the District Bar Association at Kandi. He had overwhelming influence at Kandi

court. Statements of witnesses and documents collected from court proceedings corroborate the statement of the approver viz. Lovely Bibi and demonstrate the role of the petitioner as a conduit between Lalu Sk. and co-accused viz. Arindam Roy who had manufactured the forged order sheet.

3. Facts of the case are extremely disturbing. During hearing of a case it was brought to the notice of this court that one Lalu Sk., a convict had been enlarged on bail. On enquiry it was found the application for suspension of sentence of Lalu Sk. was still pending. This prompted the court to initiate enquiry and it came to light on the strength of a forged order Lalu Sk. had obtained bail. Accordingly, criminal case was registered and one Arindam Roy was arrested. From his possession incriminating electronic records in the form of blank order sheets containing forged signatures of Hon'ble Judges were recovered. In course of investigation complicity of the petitioner transpired. Statements of law clerks and court records show petitioner was the lawyer who represented Lalu Sk. in the proceedings, produced the forged order and furnished bond. It is the defence of the petitioner that he was not aware the order is a forged one. However, statement of the approver viz. Lovely Bibi discloses his active role in obtaining the forged order against exorbitant consideration.
4. Mr. Milon Mukherjee, learned senior Advocate for the petitioner argues Lovely Bibi was declared an approver at a belated stage and her credibility is in doubt.
5. We are of the view the other materials collected against the petitioner corroborate the statement of Lovely Bibi in general particulars. Be that as it may we note the petitioner has his home

and hearth in Kandi and did not abscond. He had offered himself for investigation during initial interrogation and in fact was cited as witness in the first charge sheet.

6. We also take into consideration the fact that charge sheet has been filed in respect of Magistrate triable offences which even if proved would not attract mandatory life imprisonment. 57 witnesses have been cited in the charge sheet and a large number of documents are also to be exhibited. There is little possibility of trial concluding in the near future.
7. Learned Additional Public Prosecutor expresses apprehension that petitioner, who is an influential practitioner, if released on bail, would hinder the process of trial.
8. We find substance in such submission. However, in view of the fact that petitioner had cooperated during initial investigation which is presently complete and as there is little possibility of trial concluding in the near future, we are of the opinion further detention of the accused/petitioner is not necessary and he may be enlarged on bail however, subject to strict conditions.
9. With regard to apprehension expressed by the learned Additional Public Prosecutor that trial at Kandi shall be hampered by the machinations of the petitioner and other accused we observe it shall be open to the State to pray for transfer of the case to another district so that influence of the petitioner and other accused do not hinder the smooth course of trial.
10. Accordingly we direct the accused/petitioner, namely **Nilotpal Mondal**, shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the

learned Additional Chief Judicial Magistrate, Kandi, Murshidabad subject to condition that the petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever and on further condition that the petitioner, while on bail, shall meet the Investigating Officer twice in a week until further orders. He shall cooperate with the trial court and shall not seek unnecessary adjournment in order to delay and/or dilate the proceeding in any manner whatsoever.

11. In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

12. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)