

13.
27-09-2024
(ct. no.28)
debajyoti
(allowed)

CRM (DB) 2665 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure/483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Bankura Sadar Police Station Case No.428 of 2023 dated 02-12-2023 under Sections 406/409/417/420/120B of the Indian Penal Code.

- A n d -

In the matter of : Jesmine Khatun

.... Petitioner.

Mr. Manjit Singh,
Mr. Arkaprabho Roy,
Mr. Anish Roy,
Mr. Biswajit Mal,
Mr. Soujanya Pattanayak

... For the Petitioner.

Mr. Debasish Roy, learned Public Prosecutor,
Mr. Rudradipta Nandy, learned Additional Public Prosecutor,
Mr. Santanu Talukdar

... For the State.

Dictated by Arijit Banerjee, J.

The petitioner says that she is in custody for about seven months. Investigation is complete. Charge sheet has been submitted. Her further custodial detention is not necessary. She prays for bail.

The petitioner further says that the present FIR was lodged pursuant to an order dated December 01, 2023 passed by a learned Judge of this Court in WPA 24451 of 2022. The petitioner was not a party to that writ petition. She further says that no money trail could be found leading to this petitioner. There is not an iota of evidence that she paid any money to anybody in power to procure the job of a teacher. The entire evidence in the case is documentary in nature.

Since investigation is complete, the prosecution must be having all necessary evidence in their custody.

Strongly opposing the prayer for bail, learned Public Prosecutor says that the petitioner is a beneficiary of the School Service Commission scam. Her husband, who is also an accused in this case, was the Chairman of the West Bengal Regional School Service Commission, Northern and Western Region. He obviously manipulated and got the job for his wife. There is no valid Office Order or Office Memo in support of the appointment of the petitioner. The petitioner was purportedly appointed in connection with a panel, the validity of which expired in 2015 and furthermore, the petitioner's name also did not figure in the panel. She was appointed as Sanskrit teacher for classes 9 and 10 in the concerned school, although such a teacher was actually required for classes 7 and 8.

Learned Public Prosecutor says that given the nature of the crime and the deleterious effect it has on the society as a whole, the petitioner's prayer for bail should not be allowed.

We have given our anxious consideration to the rival contentions of the parties. We must keep in mind that still bail is the rule and jail is the exception. A citizen is not to be lightly deprived of his/her personal liberty. The general grounds for refusing bail are the nature and gravity of the offence read with the possibility of the accused person absconding if enlarged on bail and also the possibility of the accused person tampering with evidence or influencing witnesses. Further, if necessary for the purpose of investigation, an accused may be detained in custody. We must remind ourselves that bail must not be withheld by way of punishing an accused person who is yet to be convicted. The law of this country has always been to the effect that one is presumed innocent until he is proved to be guilty.

In the present case, we *prima facie* find that there may be incriminating material against the petitioner. If the prosecution succeeds in establishing its case, the petitioner will be punished in accordance with law. However, we do not see any real possibility of the petitioner fleeing. It is not also anybody's case that the petitioner is such an influential person that she is likely to tamper with evidence or influence witnesses. Investigation is complete. We do not see what useful purpose will be served by detaining the petitioner in custody any further. She is a lady.

Considering all the aforesaid factors, we are of the view that further custodial detention of the petitioner is not necessary.

Accordingly, we direct that the petitioner, namely, **Jesmine Khatun**, shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand), with two sureties of like amount each, one of whom must be local, to the satisfaction of learned Chief Judicial Magistrate, Bankura. The petitioner shall appear before the trial Court on every date of hearing and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever. The petitioner shall not leave the district of Bankura, until further orders.

In the event the petitioner fails to comply with any of the conditions stipulated above, the trial Court shall be at liberty to cancel her bail in accordance with law without further reference to this Court.

The application for bail being CRM (DB) 2665 of 2024 is, thus, **allowed**.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

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

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)