

05.11.2024

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C.R.M.(DB) No. 3478 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure read with Section 483 of the Bharatiya Nagarik Suraksha Sanhita in connection with Bhowanipore Police Station Case No. 154 of 2022 dated 07.06.2022 under Sections 302/394/34 of the Indian Penal Code and under Sections 25/27 of the Arms Act.

And

In Re : Vishal Burman petitioner

Mr. Sudipto Maitra, Sr. Adv.

Mr. Vijay Verma

Ms. Pooja Sah

Mr. Dwaipayan Biswas

Mr. Pratik Dutta

....for the petitioner

Ms. Amita Gaur

Md. Kutubuddin

... for the State

1. Learned Counsel for the petitioner submits he is in custody for two and half years. It is contended prosecution case is based on shaky foundation. Evidence of approver is improbable. Test Identification Parade examination was held after considerable delay and identification by the said witnesses in Court is of little consequence. Only six witnesses have been examined till date. There is no possibility of trial concluding in the near future. Accordingly, he may be granted bail.

2. Learned Counsel for the State opposes the bail prayer and submits petitioner and others had committed dacoity with murder. The approver, PW 1, has graphically described the

manner in which he gained access to the house and committed the crime. His evidence is corroborated in general particulars through CCTV footage and other materials.

3. We have considered the materials on record. Petitioner is accused of a heinous crime viz. robbery with murder. He along with his associates had murdered two elderly persons in the house and committed robbery. The approver had accompanied the petitioner and other accused and has deposed against them. Other witnesses have also supported the prosecution case. In the event the petitioner is released on bail there is every chance they would turn against the approver who has deposed against him. There is also possibility of winning over other witnesses. Under such circumstances in view of gravity of the offence and the adverse impact of release on bail of the petitioner on the approver and other witnesses, we are not inclined to grant bail to the petitioner at this stage.

4. Application for bail is, thus, rejected.

5. We request the trial court to expedite the trial and conclude the same at an early date preferably within 18 months from the next date fixed for recording evidence without granting unnecessary adjournment to either of the parties.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)