

05.02.2024
Sl. No.24
akd
[Rejected]

C. R. M. (DB) 4716 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 22.11.2023 in connection with RC0562022S0009 (RC09(S)/2022-Kol/2022 dated 08.04.2022 arising out of Rampurhat Police Station Case No.168 of 2022 dated 22.03.2022 under Sections 302/120B/34 of the Indian Penal Code and Sections 3/4 of the Explosive Substances Act. (G.R. Case No.578 of 2022)

And

In Re: ***Newton Sekh @ Asamul Hoque***

... .. Petitioner

Md. Asraf Ali

... .. for the petitioner

Mr. Dhiraj Trivedi .. Id. Dy. Solicitor General of India
Mr. Amajit De

... .. for the CBI

1. It is submitted on behalf of the petitioner that he is in custody for over 200 days. It is further submitted petitioner was not present at the place of occurrence. In fact, immediately after the incident petitioner had contacted the police and *Upa-Pradhan* for assistance. This shows his bonafides and rules out any evil intention on his part. He was not cited as an accused in the initial charge sheet as well as the first supplementary charge sheet. Thereafter, he has been falsely implicated. Accordingly, he prays for bail.
2. Learned Deputy Solicitor General of India opposes the bail prayer and submits petitioner was one of the conspirators in the murder of Bhadu Sk. He was present at the spot with the principal accused viz. Palash Khan, Sanju Sk., Safi Sk. and Mahi Sk. who had thrown bombs at Bhadu Sk. Apprehending a backlash petitioner had contacted the police authorities and the *Upa-Pradhan* for protection. His complicity has transpired from the statement of eyewitness viz. Bulu Sk who stated petitioner was present at the spot with firearms.

On the disclosure statement of Palash Khan and Mahi Sk., a motorcycle used by the miscreants at the time of occurrence was recovered. Statement of Harun Rashid and Marajul Islam show that the said vehicle had been purchased by the petitioner and was subsequently returned by him to the showroom on an exchange programme. Vehicle was seized from the showroom concerned. Call Detail Records (CDRs) collected in course of investigation also disclose repeated telephonic exchanges between petitioner and the principal accused at the time of occurrence. Jinnan Sk., another witness stated couple of months after the incident petitioner had boasted to him that he played a role in the murder. Petitioner has criminal antecedents and had absconded. Hence, he may not be released on bail.

3. We have considered the materials on record in the light of the aforesaid submissions. One Bhadu Sk. was a prominent political party leader in the locality. On 21.03.2022 one Palash Khan, Sanju Sk., Safi Sk. and Mahi Sk. accosted Bhadu Sk., threw bombs at him resulting in his death. Statement of Bulu Sk. shows that petitioner was also present at the spot with the miscreants. He was carrying firearms and had fled away with the other miscreants. The said Bulu Sk. also contended that the miscreants had fled away on a motorcycle. Palash Khan and Mahi Sk. made disclosure statements identifying the motorcycle used in course of the incident. Harun Rashid stated he had purchased the vehicle and thereafter had sold it to one Rezaul Sk. for valuable consideration. Rezaul Sk. in turn had sold it to the petitioner prior to the incident. On the disclosure statement of co-accused the vehicle was recovered from the showroom of '*M/s. Rani Automobiles*'. An employee of '*M/s. Rani Automobiles*' viz. Marazul Islam stated in September, 2022, the

petitioner had returned the said motorcycle on an exchange programme.

4. The chain of circumstances transpiring from these statements show petitioner was in possession of the motorcycle which was identified by co-accused as the vehicle used at the time of occurrence. That apart, couple of months after the incident one Jinnan Sk. stated petitioner boasted that he had committed the murder of Bhadu Sk. These materials disclose involvement of the petitioner in the murder. Soon after the murder of Bhadu Sk. associates of Bhadu had attacked the houses of the principal accused viz. Palash Khan and Sanju Sk. and set them on fire. In order to protect his associates petitioner had telephoned the police and the *Upa-Pradhan* for assistance. His post occurrence conduct has been explained away by the prosecution.
5. In the light of the aforesaid incriminating materials on record and gravity of the offence, we are not inclined to grant bail to the petitioner at this stage.
6. The application for bail is thus rejected.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)