

10.09.2025

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jb.

jdt.

Allowed

C.R.M. (M) 1100 of 2025

In Re : An Application under Section 439 of the Code of Criminal Procedure/under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed in connection with Kasba Police Station Case No. 474 of 2024 dated 15.11.2024 under Sections 109/3(5)/61(2) of the Bharatiya Nyaya Sanhita read with Sections 25/27 of the Arms Act.

And

In Re : Mohammad Adil Hussain @ Adil Mohammad Hussain @ Mohammad Adil Hussain Mohammad @ Md. Adil Hussain

Mr. Debapriya Majumder

... For the Petitioner.

Mr. Debasish Roy

Ms. Sukanya Bhattacharya

Ms. Sana Naaz

... For the State

Mr. Ayan Bhattacharjee

Mr. Pinak Kr. Mitra

Mr. Kaustav Talukdar

Mr. F. Laskar

Mr. Pronab Halder

... For the Defacto Complainant

Memo of evidence submitted by the State is taken on record.

The petitioner is in custody for about 200 days.

Learned counsel for the petitioner submits that he had gone to Abu Dhabi for work before one month of the alleged incident and returned therefrom after two months thereof. Look Out Circular was issued against him in connection with the present case on the strength of which he was arrested. He has no nexus with the alleged offence. It is a fact that he has two criminal antecedents in Bihar and shall face trial therein. He is not part of the conspiracy in the present matter. He prays for bail.

Opposing the prayer, learned counsels for the State and the defacto complainant submit that the allegation against the petitioner is under Section 111 of the BNS besides other allegations and he is a co-conspirator in the alleged offence. He procured a passport on the anvil of forged documents for which a separate case has been registered against him. He is an active member of the gang which conspired to commit the alleged offence. It was sheer luck that the gun used by the miscreants to shoot the defacto complainant did not operate.

Learned counsel for the State submits that the petitioner came to Kolkata on different occasions and executed a plan for killing the defacto complainant. He put up at Beeru's Lodge and his specimen handwriting in the register of the lodge has matched. He is a history sheeter. Several cases of murder, attempt to murder are pending against him in Bihar. He was lodged at Beyur correctional home in Bihar with the co-accused where the conspiracy was hatched.

Learned counsel for the defacto complainant refers to Section 8 of the Bharatiya Sakshya Adhiniyam and submits that there is reasonable ground to believe that the petitioner is a part of the conspiracy to the alleged crime.

I have considered the material on record. Admittedly the petitioner left for Abu Dhabi about one month prior to the alleged incident and returned therefrom after two months thereof. The petitioner says that he had gone there

for a job. He was interrogated on several occasions in course of investigation and has cooperated in investigation. Though the petitioner has been termed as co-conspirator to the alleged incident, his name has transpired only from the statement of the co-accused which is not admissible in evidence. There is prima facie no independent evidence implicating the petitioner or connecting him to the alleged offence. Though charge sheet records that the petitioner supplied fire arms and ammunitions and also engaged shooters of the gang, there is no prima facie material to substantiate the same. The shooter Yuvraj Kumar's confessional statement has been recorded. He has not named the petitioner as a co-conspirator to the alleged incident.

It is a fact that the petitioner has two other criminal antecedents in Bihar. In view of the extent of complicity of the petitioner in the present offence, his further detention cannot be extended solely on the ground of his criminal antecedents. Whether the provision of Section 111 of the BNS shall be attracted in so far as the petitioner is concerned shall be adjudicated by the learned trial Court upon taking evidence at the appropriate stage of the proceeding.

Considering the material on record and extent of complicity of the petitioner in the alleged offence, this Court is of the view that his further detention is not required. He may be released on bail subject to stringent conditions.

Accordingly, the prayer for bail is allowed.

The petitioner namely Mohammad Adil Hussain @ Adil Mohammad Hussain @ Mohammad Adil Hussain Mohammad @ Md. Adil Hussain shall be released on bail upon furnishing 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, Alipore subject to condition that he shall remain within the jurisdiction of Alipore police station and shall furnish the address where he shall presently reside before the learned trial Court, the investigating officer and the concerned officer in charge of the police station under whose jurisdiction he shall presently reside. He shall appear before the learned trial Court on every date of hearing fixed by the learned trial Court. He shall not tamper with evidence or intimidate witnesses in any manner whatsoever. He shall provide his mobile phone number to the above authorities and shall not change the same without prior intimation to them.

In the event the petitioner fails to adhere to any of the conditions stated hereinabove, the learned trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

The application for bail is disposed of.

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

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)