

08
25.09.2025
Ct.No.34
b.das
Allowed

C.R.M. (M) 1729 of 2025

In Re : An application for bail under Section 483 of the BNSS, 2023 filed in connection with Jorasanko P.S. Case No. 94 of 2025 dated 30.04.2025 under Sections 105/110/124/125/287/3(5)(7) of the BNS and read with Sections 11C/11J/11L/26 of the West Bengal Fire Services Act.

And

In Re : **Khurshid Alam** ... Petitioner.

Mr. Sekhar Kr. Basu, Sr. Adv.
Mr. Sandipan Ganguly, Sr. Adv.
Mr. Soubhik Mitter
Mr. Smarajit Basu
Mr. Tirtharaj Ghosal ... for the Petitioner.

Mr. Debasish Roy
Mr. Saryati Dutta
Mr. Prakash Mishra ...for the State.

Heard learned counsels for the parties.

The petitioner is in custody for about 150 days and prays for bail.

Learned counsel for the State opposes the prayer.

I have considered the material on record. The petitioner was appointed as an interior designer for renovation work for a new bar cum restaurant in the 1st floor of Rituraj Hotel.

The petitioner appointed a supervisor named Sagir Ali who used to remain present at the spot for supervising the entire construction. A devastating fire broke out in the hotel which took the lives of 14 persons who died due to asphyxia.

Learned counsel for the State points out that the said renovation/construction was being carried out without obtaining sanction from the KMC. Such allegation may hold

good insofar as the owners/management of the hotel is concerned.

The petitioner was appointed by the owners to carry out renovation/construction work. It is a fact that the material required for the said construction including plywood, fevicol and other inflammable articles were kept at the place of construction, for use of the same for the construction work. Whether such act of the petitioner can be imputed with the required *mens rea* should be left to the learned trial Court to decide.

In the authority in 2017 SCC OnLine Cal 8423 (Dr. Mani Kumar Chhetri vs. State of West Bengal) relied upon by the petitioner, a co ordinate Bench of this Court has dealt with the term “knowledge” and has observed as hereunder:-

“It is therefore, evident that the mere possibility of knowledge that death is a consequence of an act is inadequate to draw an inference as to the existence of requisite knowledge in the mind of the accused. A degree of certainty in the awareness of the individual as to the likelihood of death as a consequence of his act is a prerequisite for imputation of requisite *mens rea* in a case of culpable homicide. Knowledge as to likelihood of death must be the direct and motivating force of the act and not a mere possibility arising therefore. Hence, every rash and negligent act causing death would not *ipso facto* result in an inference as to the existence of knowledge that the rash and negligent act is likely to cause death. The foreseeability of death and the degree of certainty as to such an adverse consequence must be deductible from the factual matrix of the case as weighed alongside the collected evidence. The parameters on which such foreseeability of death may be inferred would depend on (a) the nature of duty of care vested in the accused, (b) the degree of breach of such duty, and (c) other attending facts impacting the certainty of such consequence.”

In the case in hand, the petitioner who was appointed as an interior designer for the purpose of renovation/construction of the bar cum restaurant in the 1st floor of the hotel cannot prima facie be said to have had any knowledge or *mens rea* in the alleged act. He was merely appointed by the management/owners to do the job and his role was confined to the said renovation/construction. Charge sheet has been submitted. Trial is yet to commence.

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

Accordingly, the prayer for bail is allowed.

The petitioner namely **Khurshid Alam** 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 Chief Judicial Magistrate, Calcutta subject to condition that he shall appear before the learned trial Court on every date of hearing fixed by the learned trial Court. He shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to appear before the learned trial Court on any date without justifiable cause, the learned trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

It is made clear that the observation made in this order is solely for the purpose of deciding the bail application

and shall not be construed to be an expression of opinion on the merits of the case. The learned trial Court shall deal with the matter independently in accordance with law without being influenced by any observation which may have been made in this order.

The application for bail is thus disposed of.

Case Diary be returned.

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.)