

04.03.2025
55 to 58
Court No.26
S.D.
Rejected

CRM (DB) 4435 of 2024

In re: An Application for **Bail** under Section **439** of the Code of Criminal Procedure, 1973 read with Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with **Garden Reach** Police Station Case No. **55** of **2024** dated **18.03.2024** under Sections **302/307/288/427/34** of the Indian Penal Code.

-And-

In the matter of: Md. Wasim also known as Wassi
... .. Petitioner

With
CRM (DB) 2865 of 2024

In re: An Application for **Bail** under Section **439** of the Code of Criminal Procedure, 1973 read with Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with **Garden Reach** Police Station Case No. **55** of **2024** dated **18.03.2024** under Sections **302/307/288/427/34** of the Indian Penal Code.

-And-

In the matter of: Sk. Ripon @ Md. Irfan
... .. Petitioner

With
CRM (DB) 2875 of 2024

In re: An Application for **Bail** under Section **439** of the Code of Criminal Procedure, 1973 read with Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in Connection with Garden Reach Police Station Case No. **55** of **2024** dated **13.03.2024** under Sections **302/307/288/427/34/120B** of the Indian Penal Code, 1860.

-And-

In the matter of: Md. Dilnawaz @ Raza
... .. Petitioner

With
CRM (DB) 2949 of 2024

In re: An Application for **Bail** under Section **439** of the Code of Criminal Procedure, 1973 read with Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in Connection with Garden Reach Police Station Case No. **55** of **2024** dated **13.03.2024** under

Sections **302/307/288/427/34/120B** of the Indian Penal Code, 1860.

-And-

In the matter of: Md. Samim @ Shamimpuriwala @& Anr.
... .. Petitioners

Mr. S.K. Bhattacharya
Mr. D. Banerjee
... .. For the Petitioner in **CRM (DB) 4435 of 2024**

Mr. Sekhar Kumar Basu, Sr. Adv.,
Mr. Jakir Hossain
Mr. Shahan Shah
Mr. Sk. Abumusa
Mr. Soumen Barman
Mr. Umenun Khan
... .. For the Petitioners in **CRM (DB) 2865 of 2024**

Mr. Niladri Sekhar Ghosh
Mr. Shaharayar Alam
Ms. Sompurna Chartterjee
Ms. Laboni Sikder
Mr. Souvik Dey
... .. For the Petitioner in **CRM (DB) 2875 of 2024**
Mr. S.K. Bhattacharya

Mr. Niladri Sekhar Ghosh
Mr. Sourav Mondal
Mr. Arijit Bhuiya
Mr. Rony Mondal
... .. For the Petitioner in **CRM (DB) 2949 of 2024**

Mr. Ranabir Roy Chowdhury
...For the State in **C.R.M. (DB) 4435 of 2024**
Mr. Iqbal Kabir
Mr. Habib Hassan
...For the State in **C.R.M. (DB) 2865 of 2024**
Mr. Madhusudan Sur, Ld. A.P.P.,
Mr. Mujibar Ali Naskar
...For the State in **C.R.M. (DB) 2875 of 2024**
Ms. Anita Gour
Ms. Rita Dutta
...For the State in **C.R.M. (DB) 2949 of 2024**

Four applications for bail are taken up for consideration analogously as they emanate out of the same police case. Four applications were being heard analogously by the Coordinate Bench.

The petitioner in C.R.M. (DB) 4435 of 2024 is an accused who is in custody for about 351 days.

Learned advocate appearing for such petitioner submits that considering the period of custody and the fact that police filed charge sheet and in fact trial is in progress and considering his role in the incident, prayer for bail should be considered.

Learned advocate appearing for the State submits that the petitioner is one of the developers who constructed a building illegally. Such building collapsed killing 13 persons and injuring 15 others. He submits on instructions that prosecution proposed to examine about 50 witnesses; out of which 04 witnesses stand examined. He opposes the prayer for grant of bail.

Learned Senior advocate appearing in C.R.M (DB) 2865 of 2024 submits that it is alleged as against his client that he was the head mason. He refers to the charge sheet and submits that the allegations as against his client is not to such effect. He also prays for bail on the ground of period of detention of 11 months as also the fact that the police filed charge sheet and trial is in progress with custodial trial not being required so far as his client is concerned.

Learned advocate appearing for the State opposes the prayer for grant of bail to the petitioner in C.R.M. (DB) 2865 of 2024 largely on the grounds as that of the earlier petitioner. He submits that, the petitioner is the head

mason. Petitioner was an instrumental in making the design of the building, constructing it resulting in the mishap.

Learned advocate appearing for the petitioners in C.R.M. (DB) 2875 of 2024 and C.R.M. (DB) 2949 of 2024 submits that his clients hold a Power of Attorney. His clients entered into agreement for construction after the builder obtained the sanctioned plan.

Learned advocates appearing for the State in C.R.M. (DB) 2875 of 2024 and C.R.M. (DB) 2949 of 2024 submits that the petitioner in C.R.M. (DB) 2875 of 2024 is not the owner. Such petitioners misrepresented himself to enter into several agreements with unsuspecting members of the public with regard to the constructed building. Such petitioner also fled away and was arrested from Islampur.

So far as the petitioners in C.R.M. (DB) 2949 of 2024 are concerned, learned advocate appearing for the State submits that the petitioner no. 1 was arrested from Jharkhand.

An illegally constructed building appearing to be constructed on a filled up water body, without any sanctioned building plan collapsed killing 13 persons and injuring 15 others.

Petitioners before us stand implicated in various capacities in such incident. One is a developer, the other is the head mason who designed and constructed the building, three others claimed themselves to be the owners. No

sanction for construction was obtained. Two of the alleged owners fled away from the spot and arrested from different locale.

Forensic evidence suggests that spurious materials were used in the construction. There was no sanctioned building plan for the construction. Materials on record also suggest that the construction was made on a water body.

Trial is in progress. Four prosecution witnesses were already examined.

The police case is dated March 18, 2024. Period of detention coupled with the fact that trial is in progress does not permit us to return a finding the rights guaranteed under Article 21 of the Constitution of India stand infracted so far as any of the petitioners before us are concerned.

Enlarging any of the petitioners on bail at this stage is likely to affect the trial. Moreover, it is likely to send an improper signal to the society.

In such circumstances, we are not inclined to grant bail to any of the petitioners and the prayer for bail of the petitioners is rejected.

C.R.M. (DB) 4435 of 2024, C.R.M. (DB) 2865 of 2024, C.R.M. (DB) 2875 of 2024 and C.R.M. (DB) 2949 of 2024 stand dismissed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)

