

In the Court of Special 1st Court, Birbhum at Suri

Special Case – 01 of 2021
CNR No. WBBB01-000976-2021

Present:- Smt. Sudeshna De Chatterjee(WB00580)
Judge, 1st Special Court,
Suri, Birbhum.

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10.10.2023

Today is fixed for evidence.

The sole accused person namely Saiful Alam is produced from J.C. He is remanded to J.C till date.

PW-2, Sudipta Rakshit is present.

Before entering into evidence, Ld. Advocate for the accused submitted that one bail petition is pending for hearing which has been filed on 18.09.2023. It appears that on 18.09.2023, PO was on leave and as such, the Court who remained in-charge was pleased to defer the hearing of the bail petition.

Today the bail petition is taken up for hearing and consideration.

At the time of hearing, it has been submitted that the accused is languishing in jail custody since 03.03.2021 in spite of the fact that he surrendered before the Court and he has been booked for the offence punishable under Section 403/409 of IPC and Section 66 / 66C / 66D of Information Technology Act, 2000 and the accused is now facing trial. The Ld. Advocate for the accused also submitted that he is the sole bread earner of his family and there is nobody to look after his minor daughter as well as aged parents and wife of the accused. As the accused is on temporary suspension from his job, there is no scope of tampering evidence on his side. According to the Ld. Advocate for the accused, the prosecution is intending to rely upon lot of documentary evidence including electronic evidence which can never be tampered by the accused and the process of bringing of those documents in the list of evidence is a lengthy procedure. It has been further submitted that charge in this case has been framed on 06.12.2021 but till date examination of PW-2 is going on. From the cross examination of PW-1 it is elicited that there are several sub offenders and departmental proceeding is going on against those officials but this accused has been made scapegoat only screening the actual culprits. Accordingly, prayed for passing necessary order thereby releasing the accused on bail in any terms and conditions stating that if he be released on bail he will not abscond and will face the trial.

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On perusal of the petition, it appears (in para no.13) that bail prayer of the accused was rejected by Hon'ble Court on 16.02.2021 vide CRN no. 4929/2021, on 16.06.2022 vide CRN no. 1771/2022 and lastly on 28.07.2023 vide CRN no. 3001/2023 and prior to that, prayer under Section 438 Cr.P.C was also rejected by the Hon'ble High Court Calcutta.

Ld. Special PP vehemently opposed the prayer and submitted that there was no inordinate delay in the trial as 18 dates were taken for cross examination of PW-1 and it would be also revealed from the observation of Hon'ble High Court passed in CRN (DB) 3001/2023.

Considered the submission.

On perusal of the record, I find that there is an allegation against the accused / petitioner for misappropriating of fund over 1.30 Crores from MGNREGA Scheme. Considering the nature and gravity of the offence and since the bail prayer has been rejected on repeated occasions by the Hon'le Calcutta High Court, prayer of bail is considered and rejected at this stage.

Now the record is taken up for examination of PW-2 namely Sudipta Rakshit.

Examination-in-chief of Sudipta Rakshit is resumed today but deferred on the prayer of the prosecution as dispute raised regarding marking of documents as the documents furnished contained more than 80 pages although the seizure list dt. 10.08.2020 shows in serial no. 5 (c) (iii) annexure containing 77 pages. It also appears that while marking several documents by the Predecessors of this Court, there are some irregularities in this case. In such circumstances, Ld. Special PP was requested by the Court to carry on his evidence but he refused to do so as he wants to file a petition for marking of documents containing more than 80 pages which is not mentioned in the serial no. 5(c)(iii) of the seizure list dt. 10.08.2020. At the time of taking evidence, he also submits that he will file a petition on the next date after going through the CD in detail as marking of annexure containing 77 pages relating to the enquiry report [as in item no. 5 (c) (iii)] in the seizure list dt. 10.08.2020 is very much necessary to have a just decision of the case.

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However, during the examination, following documents have been marked as exhibits :-

Exbt. no.	Description of documents	Remarks
Mat Exbt VI	Document mentioned in 5(b)(ii) as per Exbt:- 26/1	With Objection
Mat Exbt VII	Document mentioned in 5(b)(iii) as per Exbt:- 26/1	With Objection
Mat Exbt VIII	Document mentioned in 5(b)(iv) as per Exbt:- 26/1	With Objection
Mat Exbt IX	Document mentioned in 5(b)(v) as per Exbt:- 26/1	With Objection
Mat Exbt X (Collectively)	Document mentioned in 5(b)(vii) as per Exbt:- 26/1 (10 pages)	With Objection
Mat Exbt XI (Collectively)	Document mentioned in 5(b)(viii) as per Exbt:- 26/1 (11 pages)	With Objection
Mat Exbt XII	Document mentioned in 5(c)(i) as per Exbt:- 26/1 i.e. departmental enquiry report dt. 17.07.20 (3 pages)	On proof

The case is adjourned today on the prayer of Ld. Special PP.

It is worthy to be mentioned here that since there is direction of Hon'ble Court in this regard for completion of trial, let a shortest possible date be fixed for further examination of PW-2.

Ld. Special PP and Ld. Advocate for the accused do come ready with their case positively on the next date fixed. No adjournment will be given to both the parties on any ground whatsoever.

Fix **23.11.2023 & 24.11.2023** for further examination and cross-examination of the PW-2, since Puja Vacation is ensuing on and from 20.10.2023 to 15.11.2023 accused is directed to be produced before this Court on 23.11.2023.

Dictated & Corrected by

Judge, 1st Special Court,
Suri, Birbhum.

Judge, 1st Special Court,
Suri, Birbhum.