

Spl (A) Case No. 8/2023
CNR- WBBB01-000525-2023
JO-WB00702

Order No. & Date
11/ 13.10.2023

This day is fixed for appearance of accused persons namely Prof. Bidyut Chakraborty, Mahua Banerjee, Dr. Tanmoy Nag and Prasanta Kumar Ghosh.

Accused person namely Prof. Bidyut Chakraborty is absent before this court by filing a petition through his Ld. Advocate on the ground of his sudden illness. The other 3 (three) accused persons namely Mahua Banerjee, Dr. Tanmoy Nag and Prasanta Kumar Ghosh are present by filing their respective hazirahs and filed bail petitions wherein they prayed for releasing them on bail on the ground stated therein.

Copy served upon the Ld. Special P.P.

Perused the bail petition along with the record.

Perused the bail petition along with the entire record. Perused the orders passed by the Hon'ble High Court, Calcutta dated 17.07.2023 and subsequent orders dated 29.09.2023 and 04.10.2023 in connection with CRR being number 2599 of 2023 and CRR being number 3854 of 2023.

Heard Ld. Advocates for the accused persons. Heard Ld. Special P.P. and Ld. Advocate appearing on behalf of the defacto complainant.

Ld. Advocates for the accused persons submitted in the open court that in view of the orders of the Hon'ble High Court mentioned above the accused persons may be released on bail. Ld. Advocates further submitted that the accused persons above named are armed with the protection order which has been passed by the Hon'ble High Court to the effect that "*no coercive measure shall be taken against them*". It is further contended by the Ld. Advocates that the accused persons have been falsely implicated in this case and they are totally innocent. In this regard Ld. Advocate appearing on behalf of the accused nos. 2 & 3 submitted that the defacto complainant was suspended previously from Amar Kantak University, Madhya Pradesh for defalcation of money. She

strenuously submitted that the complainant suppressed the same and applied for job in the Visva Bharati University and subsequently got the said job. Ld. Advocates categorically submitted that in the instant case, the charge sheet has already been submitted against the accused persons by the I.O. of this case and further tried to convince this Court by submitting that when the charge sheet has been submitted against the above named accused persons there is no possibility in tampering with the prosecution evidence and accordingly prayed for releasing the accused persons on bail by imposing any condition upon them.

Ld. Special P.P. opposed the instant bail prayer and submitted that the Investigating Officer of this case has submitted charge sheet against the above named accused persons and also corroborated the submission of Ld. Advocates for the accused persons in respect of the orders passed by the Hon'ble High Court so that no coercive measure would be taken against the accused persons and accordingly prayed for rejection of the instant bail prayers.

Ld. Advocate appearing on behalf of the defacto complainant vehemently raised objection against the bail prayers and specifically submitted that the order passed by the Hon'ble High Court, Calcutta as regards the coercive action would not binding upon this Court. It is also the submission of Ld. Advocate that the allegations which are made against the accused persons are very serious in nature and if the accused persons being higher officials of Visva Bharati University be released on bail at this stage, the prosecution case will be prejudiced and defacto complainant would suffer a lot. Ld. Advocate also contended that when the charge sheet has already been submitted a prima facie case has also been established against the accused persons and accordingly prayed for rejection of the instant bail prayers.

Hearing the rival submissions and on perusal of the orders passed by the Hon'ble High Court, it appears that the accused persons are armed with the protection orders passed by the Calcutta High Court. Pursuant to the orders passed by the Hon'ble High Court, it clearly reveals that the Hon'ble Court was pleased to direct "*not to take any coercive steps against the accused persons*". So, sending the accused persons to the Judicial Custody might be tantamount to coercive measure against the accused persons. Not only that we know that the submission of charge sheet is the substantial development in the course of investigation. On perusal of the record, it appears that in this case charge sheet has been

submitted by the Investigating Officer namely Swapan Kumar Chakraborty, D.S.P., (DEB), Birbhum vide charge sheet number 101/2023 dated 05.07.2023 u/s 500/120B/34 of IPC read with section 3 (i) (r) (p)(s) of SC & ST (POA) Act, 1989. So, when the charge sheet has already been submitted by the I.O. of this case, there is a bleak possibility in tamper with the prosecution evidence. Hence, I find no justifiable ground to incarcerate the accused persons above named behind the bar. Therefore, the bail prayers are hereby allowed.

Each of the accused persons namely Mahua Banerjee, Dr. Tanmoy Nag and Prasanta Kumar Ghosh be released on furnishing the bail bond of Rs. 10,000/- each with two registered sureties of Rs. 5,000/-each subject to the satisfaction of Ld. C.J.M., Suri, Birbhum and subject to the following conditions :

1. Not to take any advantage of their liberty or abuse/ misuse of liberty.
2. Not to try or pressurize the prosecution witnesses including the defacto complainant in any manner.
3. Not to act in any manner which is injurious / adverse to the interest of the prosecution.
4. Not to leave the State without prior permission of this Court.
5. They would remain present on all further proceeding of this Court, if required.

If any breach of the above mentioned condition to be committed by the accused persons, appropriate steps/ action will be taken on that score and the liberty which has been already given to the accused persons would also stand cancelled.

Let a copy of this order be sent to the Ld. C.J.M., Suri, Birbhum for his information and necessary action.

Dictated & Corrected.

Judge, Special Court under
Atrocity Act, 1st Court, Suri

Judge, Special Court under
Atrocity Act, 1st Court, Suri.

Later

So far as the accused no.1 namely Bidyut Chakraborty is concerned, I have already mentioned that he could not appear

before this Court on account of his sudden illness and subsequently a petition has been filed by the Ld. Advocate in this regard and prayed for time for his appearance on the ground stated therein.

Perused the petition. Considered.

In view of the above circumstances, let another date may be fixed for hearing of the petition for exemption from the personal appearance of the accused u/s 205 of Cr. P.C. dated 07.10.2023.

Heard all concerned. No one raised any objection against such verbal prayer made by the Ld. Advocates for the accused person for fixing another date for hearing of that petition.

I would like to mention here that the instant petition has been filed without any medical prescription/ medical papers or any other medical document in respect of the sudden illness of accused no.1 namely Bidyut Chakraborty.

In the aforesaid context, Ld. Advocate appearing on behalf of accused no.1 is directed to submit medical papers/prescription/ documents if any positively by the next date fixed.

However, considering the submissions, I find for the ends of justice let 05.12.2023 be fixed for hearing of the petition u/s 205 Cr. P.C. All the accused persons remain present positively on the date fixed.

Dictated & Corrected.

Judge, Special Court under
Atrocity Act, 1st Court, Suri

Judge, Special Court under
Atrocity Act, 1st Court, Suri.

Later

After passing of the above order another petition has been filed by the Ld. Advocate on behalf of the accused persons u/s 22 of SC & ST (POA) Act, 1989 on the ground stated therein.

Fix 02.12.2023 for hearing of the instant petition. Objection, if any, in the mean time.

Dictated & Corrected.

Judge, Special Court under
Atrocity Act, 1st Court, Suri

Judge, Special Court under
Atrocity Act, 1st Court, Suri.