

Spl (SC & ST) no. 05 of 2023
CNR-WBBD010008172023
JO-WB00702

Order no.11 dated 20/09/2024

This day is fixed for appearance of the de facto complainant namely Rajib Biswas and hearing of bail petition .

Copy served upon the de facto complainant. One hazira is filed on behalf of the de facto complainant. The de facto complainant namely, Rajib Biswas is present before this court. Ld. Advocate filed one vakalatnama to appear in this case on behalf of the de- facto complainant. Let the vakalatnama be kept with the record.

The accused namely, Samir Laha surrendered before this court. The surrender of the accused is hereby accepted. He is taken into custody and remanded to J.C.

One bail petition has been filed by the Ld. Advocate on the behalf of the above named accused person wherein he prayed for enlarging the accused person on bail on the grounds stated therein.

The bail petition is taken up for hearing.

Perused the bail petition along with the materials on record.

Heard Ld. Advocate for the accused person and Ld. Special P.P.

Ld. Advocate for the accused person very candidly submitted that the accused has been falsely entangled in this case. He further contended that the accused filed a case against the defacto complainant u/s 138 of N.I.Act and only for the said reason and out of vidence the lodged the instant case against the accused person. Ld. Advocate again contended that he has complied with the notice u/s 141A of Cr.P.C. Ld. Advocate finally contended that in this case, the charge sheet has already been submitted against the accused person and also submitted that when the charge sheet has been filed after completion of the investigation, there is no chance to tamper with the prosecution evidence and accordingly, prayed for releasing the accused person on bail by imposing any condition upon him.

On the other hand, Ld. Special P.P. raised formal objection against instant bail prayer and also corroborated the submission of the Ld. Advocate for the accused person in respect of filing of a criminal case by the accused person against the defacto complainant. He further submitted that after thorough investigation, the investigating agency has filed the charge sheet against the accused person and filing of charge sheet denotes a prima facie established against him in respect of the offence committed by the accused person on the relevant date and time and accordingly, prayed for its rejection.

Ld. Advocate appearing on behalf of the defacto complainant submitted that the accused threatened the defacto complainant after filing of the instant case and also abused and humiliated him on the relevant date and time of incident in a public place by calling his caste and also assaulted him and accordingly prayed for rejection of the bail prayer. The defacto complainant on dock submitted the accused is a influential person and also in habit to put threat upon him and also prayed for passing necessary order.

Considering the rival submissions of both the Ld. Advocates and on perusal of the record, it reveals that after completion of investigation, the charge sheet has been submitted against the accused person by the IO of this case u/s 341/323/504/506 IPC read with Sec 3(i) (r)/3(i)(s) of SC & ST (POA) Act, 1989 on 07/01/2023. In this case, when the CS has already been submitted, it negates the fact of tampering with the prosecution evidence and witnesses. I do not find any materials in the CD which appears to be credible for further detention of the accused and to curtail his liberty as engrafted under Article 21 of constitution.

Not only that in view of the above circumstances and considering the matter in its entirety, the interest of justice and keeping in mind the decision of the Hon'ble Apex Court reported in **Satender Kumar Antil -VS- CBI & another (2022) live law Supreme Court 577** and also keeping in mind the letter and spirit of the decisions of the Hon'ble Apex Court , I find no justifiable ground to incarcerate the accused behind the bar.

Accordingly, the bail prayer of the accused person is hereby allowed. Accused person, namely, Samir Laha may find bail of Rs.6,000/- with two (2) registered sureties of Rs. 3,000/- each and on conditions that (1) he shall engaged in no act adverse to the prosecution, (2) he shall not leave the jurisdiction of the court without prior permission, (3) he shall not tamper with or prevail upon the prosecution witnesses including the victim in any manner and if, the condition so imposed by this court would be violated by the accused person, the liberty so granted to him may automatically be cancelled, subject to the satisfaction of Ld. C.J.M. Purba Bardhaman I/d to J/C.

If, on bail, to date i.e. 20/02/2025 for appearance of the accused person and supply of copies.

Let a copy of this order be sent to the Ld. C.J.M.,Purba Bardhaman with a request to accept the bail bonds and after accepting bail bonds issue release order and return the same to this Court for keeping the same for future reference.

Dictated & Corrected.

Judge, Special Court,
(SC & ST) Act 1st Court,
Burwan.

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