

Present: Deb Kumar Goswami, Additional Sessions Judge, 3rd Court, Bankura

SC 31 of 2018

ST 01(04)18

CNR No. WBBK01-000279-2018

Order No. 41 dated 30.01.2024

Today is the date fixed for appearance of the accused persons who are on CB, production of accused Netai Majhi who is in J/C in connection with another case and hearing of petition filed u/s 319 CrPC.

All the accused on CB are present along with their Ld. Advocate.

Accused Netai Majhi is produced from J/C.

Ld. P.P. in-charge is present.

Dharani Majhi and Rahit Majhi are present along with their Ld. Advocate.

The petition filed by Ld. P.P. in-charge u/s 319 CrPC is taken up hearing.

Perused the instant petition, written objection filed said Dharani Majhi and Rahit Majhi, materials available on record including the evidence of prosecution witnesses and heard Ld. Advocate of both sides. Considered.

Ld. P.P. in-charge submits that Onda PS Case No. 89/17 dated 29.05.2017 u/s 447/341/324/325/326/307/354B/427/506/34 IPC was initiated against eight accused persons namely, Dharani Majhi, Ananda Majhi, Sanatan Majhi, Rahit Majhi, Netai Majhi, Girish Majhi, Gopal Majhi and Anath Majhi. After completion of investigation, the I.O submitted charge-sheet against all the FIR named accused persons except Dharani Majhi and Rahit Majhi. Charge was framed against the accused persons sent for trial under different sections. Ld. P.P. in-charge further submits that from the side prosecution as many as twenty one witnesses have been examined till date and their examination in-chief clearly indicate the involvement of Dharani Majhi and Rahit Majhi who despite being named in the written complaint were not charge-sheeted by the I.O.

Ld. Advocate of Rahit Majhi and Dharani Majhi contends that on the date of alleged incident his said two clients were in their respective places of work. It is further submitted that due to political rivalry they were named as accused by the prosecution witnesses.

At this stage Ld. P.P. in-charge by drawing the attention of this court to the decision of the Hon'ble Apex Court in c/w Criminal Appeal No. 2186/2023(Yashodhan Sing Vs. The State of Uttar Pradesh) submits that at the stage of consideration of petition filed u/s 319 CrPC the proposed accused has not right of being heard.

Perusal of the said decision runs harmony with the contention of the Ld. P.P. in-charge.

Having regard to the involvement of said Rahit Majhi and Dharani Majhi in the alleged offence as transpires from the evidence on record, the petition filed u/s 319 CrPC is allowed.

Said Rahit Majhi and Dharani Majhi are present before this court and identified by their Ld. Advocate Sri Manik Biswas.

The persons identified as **Rahit Majhi and Dharanit Majhi do not dispute their identity and accordingly both of them are taken into custody and remanded to J/C till 02.03.2024.** The photocopy of Aadhaar Card of Rahit Majhi and Dharani Majhi are lying with the case record.

At this stage Ld. Advocate of accused Rahit Majhi and Dharani Majhi files a petition for bail and copy of same has been served upon Ld. P.P. in-charge.

Ld. Advocate of said two accused submits that the accused persons have permanent hearth and home in the district of Bankura and they have no chance of abscondance. It is further submitted that the said two accused appeared before this court in obedience to the notice served upon them. Ld. Advocate submits that accused Rahit Majhi is an employee of Forest Department of Govt. of West Bengal and he would retire in next year. Ld. Advocate submits that accused Dharani Majhi is a Gr. D staff of a School run by Govt. of West Bengal. Ld. Advocate prays for bail on any terms and condition.

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Ld. P.P. in-charge submits that though custodial interrogation of the present two accused is not required but he opposes the prayer for bail.

Having regard to the submission advanced by Ld. Advocate of both sides and no fruitful purpose could be achieved by putting the present two accused behind the bar especially when all other are on bail, I am inclined to enlarge both the accused persons namely, **Rahit Majhi and Dharani Majhi on bail and accordingly they may find bail of Rs. 5,000/- each with two registered sureties of Rs. 2,500/- each subject to satisfaction of Ld. CJM, Bankura.** If the accused are on bail, to 02.03.2024 for appearance of accused persons who are on bail, production of accused Netai Majhi and consideration of charge so far as accused Rahit Majhi and Dharani Majhi are concerned.

Let a copy of this order be at once transmitted to the Ld. CJM, Bankura for his information and necessary action.

Dictated & Corrected by me

Sd/-

Additional Sessions Judge,
3rd Court, Bankura

Sd/-

Additional Sessions Judge,
3rd Court, Bankura
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