

Special Case 1 of 2018
Order No.6 dated 08.02.18

Today is fixed for production of two accused namely Bikash Chandra Sarkar and Amitava Chanda. Both the accused in J/C are produced. Bail petitions are filed by Ld. Advocates of both the accused.

Ld. P.P is present.

Heard both the petitions from both sides.

It is submitted by Ld. Defence counsel for accused Bikash Chandra Sarkar that he is the ex employee of that department but the trap case is led against him u/s 7 of P.C Act which strictly provides the provision only applicable for the Public Servant. So, the particular provision under which this accused has been trapped is not at all legal in the eye of law. Moreover, being the ex employee of the said department he used to visit that office on different reasons but the allegation as made in the F.I.R is totally fabricated and concocted story implicating him in this case showing him as a tout. From his custody only Rs.2000/- has been recovered. They are in custody for 19 days. No substantive materials has come out in course of interrogation during this period against him and thus he is now entitled to get bail.

Ld. Advocate for the other accused Amitava Chanda it is submitted that he was arrested on the basis of statement of accused Bikash Ch. Sarkar. He was not made part of the said trap process only in course of investigation police would be able to find some amount of money from his residence. He is serving at his post for a long period of time and he has every detail explanation about the seized amount in consonance with his known source of income. So, practically no allegation is established against him u/s 7 of P.C Act as made in this case. He is in custody for 19 days. He already has been suspended from his service. So, there is no chance of influencing his subordinates at his office and thus he may be released on bail on any condition at this stage.

On the other hand Ld. Public Prosecutor raises objection against the submission of Ld. Defence counsel of both sides. It is further submitted that from the C.D specially the 161 statements of the witnesses it becomes very much clear that the accused Amitava Chanda used to take bribe through his agent Bikash Ch. Sarkar and other staff of his office and so prima facie there is sufficient materials against both of them, for which at this early stage of investigation they should not be enlarged on bail.

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One petition praying for adding section 8 and section 13 (1)(d) and 120B of I.P.C is lying pending though it was filed on 20.01.18.

considered the submissions of both sides. Perused the C.D.

To proceed further in this case specifically against accused Bikash Ch. Sarkar the prayer for adding of section 8 is allowed and also against Amitava Chanda the prayer for section 13 (1)(d) P.C Act is allowed. The prayer for adding section of 120B of I.P.C is allowed against both the accused. It has come out from the C.D that on the basis of a complaint these two persons were arrested first one in a trap and the second one on the basis of statement made by accused no.1. accused no.2 Amitava Chanda at the time of offence is found as a Public Servant. It is categorically submitted by Ld.Defence Counsel that the fact on which the allegation is made is false because the said commission work has been completed for which such bribe was demanded as per allegation, so, considering the particular nature of this case as well as the period of detention both the accused persons must be enlarged on bail. The stage of investigation is considered as well as the factum of this case. Both the accused are in custody for 19 days including today. I think it is not the right time to enlarge them on bail to identify and locate the actuality of the allegation as raised by the complainant and for which the investigation is going on and thus both the bail prayers are rejected at this stage.

Fix 16.02.18 for production and I/O's report.

C.D again call for.

D/C by me :

Addl. Dist. & Sessions Judge,
Bench – II

Copy forwarded to : 1. I/O of this case for information.