

Sessions Case No. 31 of 2023
CNR No. WBCS01-000484-2023

Order No.20 dated 30.04.2024 :-

Today is fixed for production and evidence.

All the four accused persons are produced from J/C and placed on dock.

The Ld. P.P. is present with one witness namely, Raju Shah.

Ld. Advocates for the accused persons are also present.

The witnesses Raju Shah examined in chief and cross-examined in part as PW 12. Further cross examination of PW 12 is deferred on the prayer of the Ld. Advocate for the accused persons. During examination in chief, PW 12 proves his signature on the seizure list dated 08.02.2023 which is marked Ext P 8/ PW 12. PW 12 also identifies the seized articles (pieces of wooden buttams) and proves his signature on two labels which are marked Mat Exts **MO X, XI, X/1** and **XI/1** respectively.

Ld. Advocate for the accused Amitabha Saha moves a fresh bail petition filed today praying for an order enlarging the accused on bail.

Heard Ld. Advocates for both the sides on the bail petition.

It is stated that the accused moved a bail petition before the Hon'ble High Court, Calcutta which was rejected on 19.12.2023. However, there was a change in circumstances after such order of rejection and the eight year old son of the accused Amitabha Saha was suggested to undergo an operation (Pyelo Plasty) for left PUJ obstruction in the left kidney.

It is further stated that 11 out of 18 CS witnesses have already been examined and only the doctors, Ld. Magistrate and other police officers including I.O. remain to be examined. As such, there is no chance of tampering the evidence.

Considering these aspects, Ld. Advocate for the accused prays for an order releasing the accused on bail under any conditions.

The Ld. P.P. has raised strong objection against the bail prayer. It was pointed out that allegation against the accused is so severe, it disentitles him to get bail even on humanitarian ground as mentioned in the bail petition. It is submitted that there is sufficient incriminating materials in the evidence of the witnesses recorded so far. It was further pointed out that charge was framed u/s 302/34 of IPC against the accused persons on 17.07.2023 and since then 11 witnesses were examined in full while the 12th witness for the prosecution who appeared today, was examined in part. As such, there was no laches on the part of the prosecution. Opposing the argument advanced by the Ld. Advocate for the accused, it was pointed out that some of the private witnesses apart from the formal witnesses are also to be examined in this case. As such, if the accused is released at this stage, the chance of tampering with the evidence cannot be overruled.

Perused the available materials on record. It appears from the available medical documents that on USG of the abdomen of Sri Srijan Saha aged 8 years, dilated pelvycalyceal system was noted with ballooned renal pelvis and collapsed proximal ureter in the left kidney with most likely left PUJ obstruction.

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On careful perusal of the available evidence, I find sufficient incriminating materials against the accused. The trial is in full swing and only a few witnesses are left to be examined. It appears that by order dated 19.12.2023 the bail prayer of the accused was rejected as there were ample evidence implicating him in the crime. After such rejection of the bail prayer by the Hon'ble High Court, Calcutta, the trial progressed before this Court and several witnesses were examined. I find no laches on the part of the prosecution.

In this case the accused persons are charged with murder u/s 302/34 of IPC and there is sufficient incriminating materials against the accused. Considering the gravity of the offence, progress of the trial and materials against the accused, I am not inclined to allow the bail prayer even though humanitarian ground arising out a medical emergency of the son of the accused is agitated in the bail petition.

Accordingly, the bail prayer stands rejected.

To **15.05.2024** for production and further evidence of PW 12.

Accused persons remanded to J/C till the next date.

Dictated & corrected by me.

Addl. Dist. & Sessions Judge
(WB00868)
2nd Fast Track Court, Calcutta.

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