

Sessions Case no. 46 of 2022

CNR : WBCS01-000633-2022

Present : Abhijit Ghosh
(JO Code-WB 00910)
Addl. Dist & Sessions Judge,
1st Fast Track Court, Bichar Bhawan, Calcutta.

Order dated 37, Dated 14.02.2025:-

Four accused persons namely Ankush Gautam, Roop Kishore Kushwaha, Sushil Kumar and Karan Varma are produced from J/C.

Ld. Advocates representing the accused persons are present.

Ld.Special P.P is present through V.C.

Bail petition filed on behalf of the accused in J/C namely Ankush Gautam is taken up for hearing.

Written objection has been filed by Ld. Special P.P.

Ld. Advocate of the petitioner/accused submitted before this court that the accused was arrested by Police on 01.03.2022 and charge was framed on 16.07.2022 and since then the accused is languishing in custody. Prosecution has taken several dates during the stage of trial and by drawing the attention of the court to the dates of order sheet Ld. Advocate submitted that prosecution did not bring any witness on those dates, as a result of which delay is caused in the progress of the trial due to latches of the prosecution. It has been submitted by the Ld. Advocate that three charge sheeted witnesses has been completed till 13.02.2025 and there are number of witnesses are to be examined by the prosecution which will take a lot of time causing a delay in the progress of trial. He further submitted that during custody the petitioner lost his father and could not attend the last rites and rituals of his deceased father and at present the health condition of the mother of the petitioner is not well. Nothing was seized from the possession of the accused. In such circumstances Ld. Advocate prays for bail.

In reply the advocate of Special P.P submitted through V.C that the bail application filed by the accused is in utter contravention of the judgment of the Hon'ble Supreme Court of India in the matter of Kusha Duruka Vs. State of Orissa, AIR 2024 SC 790 wherein Hon'ble Court was pleased to direct that in subsequent bail applications, it is mandatory to mention the details and attach copies of the orders passed in the earlier bail applications filed by the petitioner which have already been decided in the instant case and the fact of previous rejection is required to be stated on affidavit while filing the present bail application. He further submitted that in the instant case the petitioner has not complied the order of the Hon'ble Apex Court of India. Ld. Advocate drew the attention of the court to the circular passed by Hon'ble High Court, Calcutta in

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connection with the judgment passed by Hon'ble Apex Court of India. He further submitted that there is no laches on the part of the prosecution. The delay has been occasioned due to non-cooperation of the defence counsel in production of the witness as well as cross examination. Ld. Advocate further submitted that there is sufficient merit in the case having regard to the evidence already brought by the prosecution as against the present accused. Ld. Advocate relied upon a case decision in Criminal Appeal No. 206/2024 by Hon'ble Supreme Court of India contending that seizure is not at all required from an accused in establishing his involvement and participation in connection of the offence and prays for rejection of the bail application.

Having considered the facts and circumstances and the gravity of the offence and the charge made out u/s 302/394/120B/34 IPC and the smooth progress of the trial and there is no laches on the part of the prosecution in bringing the witnesses for evidence and considering the materials on record including evidence and considering the chance of absconition of the accused causing frustration of the trial as he is resident outside jurisdiction of this court and non-compliance of the order of the Supreme Court of India, the bail petition stands rejected.

Today no witness is present.

Accordingly the case is adjourned on prayer of the prosecution.

Above named four accused persons are remanded to J/C till 17.03.2025.

I.O is present.

I.O supplied DVD consisting of all copies relating to investigation of this case to all four accused persons. The copy of the same including one DVD is filed by the I.O which is kept with the record.

A schedule is fixed for further evidence as per convenience of availability of Ld. Special P.P as well as defence counsel.

Fix 17.03.2025 for further evidence.

Fix 18.03.2025 for evidence.

Prosecution is directed to issue summons accordingly.

I.O is directed to ensure the attendance of the witnesses.

Inform all concerned accordingly.

Dictated & corrected by me

Addl Dist & Sessions Judge
Fast Track Court 1, Calcutta