

In the Court of Ld. Adl. Dist & Sessions Judge,

Fast Track Court No. II,

Bihar Bhavan, Calcutta.

Sessions Case No. 76 of 2011

Order No. 36 dated 10.09.2020 :-

Custody warrant of accused Barun Sur @ Bidyut @ Sahin is received but the accused is physically not produced before the Court today. Custody warrants in respect of rest three accused namely 1) Bimal Mallick @ Bachhu @ Shankar, 2) Kalpana Maity @ Anu and 3) Akhil Chandra Ghosh @ Akhil @ Anil Ghosh @ Ajay Da are not received from the concerned correctional homes nor they have been physically produced before this court today.

Today is fixed for hearing the bail petition filed by the accused Akhil Chandra Ghosh @ Akhil @ Anil Ghosh @ Ajay Da, filed on 12.08.2020 and framing of charge.

Ld. P.P. in charge is present and Ld. Defence Counsel for the accused namely Akhil Chandra Ghosh @ Akhil @ Anil Ghosh @ Ajay Da is also present. Ld. Advocate for the rest accused is not present today.

Bail petition is taken up for hearing today.

Ld, Defence Counsel submits that accused Akhil Chandra Ghosh @ Akhil @ Anil Ghosh @ Ajay Da is suffering from cardiac problem and needs bypass surgery. He is 70 years old. Sudip Chongdar, prime accused of this case expired due to medical reasons. This accused person has no criminal antecedent, neither any arms or explosive substances have been seized from the possession of this accused person except leaflet, walkie-talkie, magazine etc. Relying upon the decision of Hon'ble Apex Court, passed in Criminal Appeal No. 1383 of 2007 in Indra Das -Vs- State of Assam and the judgment of Hon'ble High Court of Gujarat in Visvanath @ Vishnu Vardhrajn Aaiyar-Vs- State of Gujarat, Ld. Lawyer submits that mere membership of banned organisation or carrying any such document is no offence. So, considering the legal as well as the medical aspects the accused shall be enlarged on bail on any condition.

Ld. P.P. in charge candidly submits that he has no objection if the accused is enlarged on bail.

Having heard both sides, I perused the case record as well as the case diary very carefully and considered the same.

It appears from the case record that allegations are serious in nature and charge has not yet been framed in this case. From the report of the medical officer of Dum Dum Correctional Home dated 01.09.2020, and the Superintendent of the said correctional home dated 02.09.2020 it is found that although this accused was admitted to hospital from 24.12.2019 to 04.01.2020 but now his condition is stable. Moreover, from the copy of the order passed in C.R.M. No. 2527 of 2017 it is found that the Hon'ble High Court was pleased to reject the application of bail of this accused person and directed this court to proceed with the trial at day to day basis after framing of charge. It is very unfortunate that this case is pending since 2011 and charge could not be framed yet. As trial has not yet commenced, I am of the humble opinion that the decisions relied by Ld. Defence Counsels are not application to this case.

In the light of the aforesaid discussion, I find no justification to allow the prayer of bail of this accused filed on 12.08.2020.

Thus, the bail application stands rejected and accordingly the same is disposed of.

Fix 29.09.2020 for framing the charge against the accused persons.

Superintendent, Midnapore Correctional Home is directed to produce the accused, Bimal Mallick @ Bachhu @ Shankar, Superintendent, Bankura Correctional Home is directed to produce accused namely Kalpana Maity @ Anu and Superintendent, Dum Dum Correctional Home is directed to produce the accused namely Akhil Chandra Ghosh @ Akhil @ Anil Ghosh @ Ajay Da on the next date fixed.

Send copies of this order accordingly to the Superintendents of concerned correctional homes.

Dictated & corrected by me.

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

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

Memo No.

Date :

Copies forwarded to, for information and necessary action :

1. The Superintendent, Midnapore Correctional Home, Midnapore.
2. The Superintendent, Bankura Correctional Home, Bankura.
3. The Superintendent, Dum Dum Correctional Home, Alipore.

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