

**GR-1063/2022**

**Order dated 03.07.2023**

As fixed, the case record is taken up for passing order in respect of the bail petition filed by the accused no. 2 Goutam Banerjee and accused no. 4 Mahesh Fogla.

On the last date, I have heard the learned advocates for both the accused persons who have prayed for bail under the provision 437 (6) of Cr. P. C as well as on merit and on the ground of detention since 2011.

Ld. APP like the previous occasions raised objection and spoke in favour of custody trial in this serious offence.

Perused the case record and the CD.

Previously in the month of April this year, the bail applications of these two accused persons under section 437(6) of the Code were considered and rejected after passing a lengthy and reasoned order. The ground of rejection included the “daring” nature of the offence committed directly against administration of justice and the fact that the Hon’ble Court in this case after commencement of trial during evidence rejected the bail prayer of the accused no. 4 Mahesh Fogla with the following observation :

***“ In view of the daring nature of offence committed by the petitioner and as dates have been fixed for recording evidence, we are not inclined to grant bail to the petitioners at this stage. Accordingly, the bail prayer is rejected.”***

The above mentioned grounds still hold good as on this date after expiry of a few months.

In the last order dated 28.04.23 I have mentioned that while considering an application u/s 437(6) of Cr. P. C it is open for this court to keep in mind other points of consideration which includes gravity of the offence and in that order dated 28.04.23, I have thoroughly explained the gravity of the offence and rejected the bail application holding that the result of triple test is not going in favour of the accused persons. That position also remains the same today as on this date.

I reiterate that the offence is very serious in nature which directly affects administration of justice and the instant case has been recorded on the basis of a solemn order of Hon’ble Mr. Justice Md. Nizamuddin of Hon’ble Calcutta High Court dated 12.09.22 in connection with four writ petitions and on the basis of a subsequent inquiry report. The accusation is that the accused persons have hatched up a criminal conspiracy with each other and in pursuance thereof filed several writ petitions before the Hon’ble Calcutta High Court by virtue of fake power of attorney manufactured by them, by forging the signatures of the petitioners without their knowledge, consent or authorization. This case is like a beaded chain where each and every participants have their respective roles to play and at this stage when trial is going on I am not inclined to

discuss much about the role played by these two accused persons but allegedly they have roles to play in the crime and since there was a conspiracy to commit the crime the rejection of bail petition of one accused by the Hon’ble Court also affects the others.

The offence is so serious that the Hon’ble Calcutta High Court in the said writ petition, where lies the genre of this case held the following :-

***“ This court expects that both the aforesaid authorities will monitor the investigation of this case of serious nature involving defrauding the State revenue and this High Court and shall see that stern actions are taken against those who are involved in such a serious crime so that it becomes a precedent in future and message goes to the society against the culprits comprising of businessmen, chartered accountants, advocates.”***

In this case, after filing of charge sheet, custody trial was found necessary so the bail prayer of these accused persons along with others were refused and charge was framed u/s 120B/419/420/466/467/468/471/474 of IPC and it is to be noted that the maximum punishment for offence u/s 467 and 474 extends to imprisonment for life.

After commencement of trial at the stage of evidence, the accused no.4 moved his bail petition before the Hon’ble Court and the same was refused with the above quoted observation. After that rejection, the accused no. 2 namely Goutam Banerjee not pressed his bail application before the Hon’ble Court and the Hon’ble Court while dismissing the application being not pressed requested this court to **expedite the trial**.

Accordingly this court is trying to carry on with the trial as expeditiously as possible but as stated in the previous order, I could not hear the matter on day to day basis u/s 309 of Cr. P. C to accommodate the multiple senior lawyers of the accused persons who are praying for dates after a reasonable gap as per their convenience.

However, as of now 10 witnesses have been examined out of 28 CS witnesses and several documents have been marked as exhibits. Thus, we are now in the midst of custody trial and if they are enlarged on bail, the chance of influencing the witnesses in this case cannot be ruled out. In my considered view, the necessity for their detention is still there in this very serious case. Thus in the light of the above observation, I am inclined to reject the bail petitions of these accused persons at this stage of trial.

Hence it is ordered, that the bail petitions are considered and rejected.

To date for evidence.