

Order No.2
10.05.16

Today the accused Bappa Roy and accused Siben Barman are produced from J/C. One bail application has been filed on behalf of the accused Bappa Roy.

Today is fixed for evidence of the Prosecution witnesses.

Ld. P.P I present but no witness is present today inspite of Summons issued on behalf of the Prosecution to the witness concerned.

Since no witness has turned up on behalf of the prosecution Ld. Advocate for the accused Bappa Roy stated that his client is languishing in Jail since November, 2015 and his client is 100 % disabled person who is absolutely deaf and dumb. His client is totally innocent and has been falsely implicated in this case. Since his arrest the prosecution failed to frame Charge against the accused person for a long period and even after framing of Charge the prosecution is also failed to produce any witnesses on their behalf for examination before this Court. Ld. Advocate further stated that since his client is languishing in jail for a considerable period of time and during the period the trial of this case has not been commenced and where there is a delay in trial in view of decision of Hon'ble Apex Court reported in (2000) 9 SCC 443 his client is entitled to get bail.

Ld. P.P opposes the prayer for bail stating inter alia that the offence committed by the accused is not the simple offence, which is a serious offence in respect of the society. The offence for which Charge has been framed is serious one and if the bail be granted to the accused Person there is every chance of his absconding and chance of delay of trial.

Perusing the reported case I find that the Hon'ble Court in Vivek Kumar-versus-State of U.P observed that the trial in connection with case u/s 307/395/149 of I.P.C was delayed for pretty long time and for that reason the Hon'ble Apex Court granted bail to the Petitioner. Here in this Case Charge has been framed against accused Bappa Roy on 15.04.16 and today is the first date of commencing of trial. Here in our case there is no abnormal delay as it has been observed by the Hon'ble Apex Court reported in (2000)9 SCC Page 443. The reported case is not befitting for the present facts and circumstances.

Above all since there is a chance of absconding the accused if bail be granted to him, I think it is not the proper time of grant bail to accused Bappa Roy.

Thus prayer for bail is rejected.

TO **16.06.16** for production and evidence.

Dictated and corrected
by me

(Anupam Mukherjee)
Special Judge
Under POCSO Act
Darjeeling
10.5.16

Special Judge
Under POCSO Act
Darjeeling

