

Special 24/2022
CNR no.WBHG-01-002388-2022

Order no.27 dt. 21.09.2023

Accused Bidhan Ghosh on c/b is also present before me.

Today is fixed for hearing of the petition for discharge u/s 227 of Cr.P.C of the accused Bidhan Ghosh. Now, one verified written counter is filed as against the aforesaid discharge petition by the C.B.I. Copy served.

The learned Advocate for the accused Bidhan Ghosh submits that this accused is not FIR named. His role and participation in the alleged incident has not been established by the evidence collected during investigation of this case. From none of the medical papers name of this accused Bidhan Ghosh gets transpired. No prosecution witnesses made any allegation against this accused having his involvement in the case. The charge sheet penal section is read with section 149 IPC. So, this accused person should be discharged from this case.

The learned Prosecutor appears for the C.B.I submits that the stage of charge guilt or innocence cannot be prejudged without a meritted trial. The C.D of the case is placed before me with reference to the written counter filed today. The manner of committing the incident was horrific for which several persons suffered grievous injury and one of them namely Gopal Patra had lost his life. The involvement of this accused by no stretch of imagination can be overlooked because this is a case read with sections 120B/149 IPC. With the above submissions, rejection of the discharge petition is seriously urged on.

It is a well settled principle of law that an accused can be discharged only if no case is made out, even after presuming the entire prosecution case to be true. I have taken myself through relevant pages of the C.D and found overwhelming incriminating materials in the C.D. This is a case u/s 149 IPC besides other penal sections of law. There is no legal escape to conduct a mini trial at the stage of framing of charge as it is impermissible. Without dissecting the evidences during trial, innocence of this accused cannot be prejudged only because his name does not appear in the medical papers and FIR. He cannot be held scot-free without a meritted trial. I do not find any substance in the argument of the learned Defence Counsel for this accused. Considering all aspects, the petition for discharge of of this accused Bidhan is summarily **rejected** on contest. Petition thus stands disposed of.

Dictated & corrected by me

Additional Sessions Judge,
 1st Court, Chinsurah
 J.O code W.B00753

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 1st Court, Chinsurah.
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