

**Special 271 of 2023**  
**(CNR no. WBHG-01-004263-2023)**

**Order no.12**  
**27.03.2024**

The instant case record is placed before me for passing the necessary order in pursuance of one discharge petition filed dated 07.02.2024 on behalf of the accused Ratan Khetrpal and Sudip Bhattacharjee @ Tilok under Section 227 Cr.P.C.

Let us first set down the submissions made by the parties.

Learned Advocate for the aforesaid accused persons in J/C submitted that only within 03 hours of the FIR dated 09.05.2023, the victim minor boy Adhyan Saha was recovered by the police. Entirely on the false pretext, they were arrested on 15.05.2023. Although no incriminating materials were found against both of them but police have submitted charge sheet against six accused persons including them under Sections 363/365/364A/120B IPC. There is no evidence collected by the I.O. to prove the ingredients of any of the offences in which charge sheet is submitted. Learned Advocate led me to the aforesaid sections of law and accentuated again and again that there is no prima facie case coming against the accused petitioners. So, they be discharged from this case.

Per contra the learned P.P. Hooghly briefly arguing the matter submitted with force that there are sufficient, tangible and incriminating materials in the CD to prove the charges against the present accused petitioners. He drew my attention to the bail rejection order of the Hon'ble High Court when charge sheet was already submitted as also several bail rejection orders passed by the learned Sessions Judge and this learned court. He volubly stressed for the custody trial after forthwith framing of the charge.

*Now, let us decide and dispose of the matter.*

The charge sheet in the case was submitted on 07.08.2023. The Hon'ble High Court's Division Bench of the Hon'ble Justice Joymalya Bagchi and Hon'ble Justice Gaurang Kanth rejected the bail prayer u/s 439 Cr.P.C. of Sudip Bhattacharya on 13.10.2023 in C.R.M. (DB) 3987 of 2023 and that of Ratan Khetrpal on 19.10.2023 in C.R.M. (DB) 4114 of 2023 upon considering the materials in the CD and on both the occasions charge sheet was submitted long before. Again, very recently, bail prayer u/s 439

Cr.P.C. of the accused Subhasis Tribedi @ Raja & Another was rejected by the same Division Bench of the Hon'ble High Court in C.R.M. (DB) 4503 of 2023 and obviously charge sheet was submitted long before on 07.08.2023 in the case.

There is no doubt that the Hon'ble High Court on appreciation of the materials on record (CD and charge sheet) rejected the bail prayer of the accused petitioners.

In the case of Sudip Bhattacharya, the Hon'ble Court observed in its bail rejection order as under:

“We have considered the materials on record. Petitioner had abducted a two-year-old boy for ransom. Statements of witnesses implicate the petitioner in the crime.”

In the case of Subhasis Tribedi @ Raja & Another, the Hon'ble Court observed in its bail rejection order as under:

“We have considered the materials on record. CDRs collected during the investigation show the tower location of both the petitioners at the place where the minor child was kidnapped and also at the place where he had been left. Various incriminating articles were also recovered from the residence of the petitioners.

In view of the aforesaid incriminating materials, it is difficult to accept the submission of the learned Advocate that petitioner no.2 was not present at the place of occurrence where the victim was kidnapped. Under such circumstances and in view of gravity of offence, we are not inclined to grant bail to the petitioners at this stage.”

In the case of Ratan Khetrapal, the Hon'ble Court observed in its bail rejection order as under:

“We have considered the materials on record. Bail prayer of the co-accused Sudip Bhattacharya was rejected on 13.10.2023. Offence involves kidnapping of a two-years old boy for ransom. There are materials connecting the petitioner with the crime. We are not inclined to grant bail to the petitioner.”

In any event, there is no scope to take a contrary view from the Hon'ble High Court as observed in several bail rejection orders.

The Division Bench of the Hon'ble Justice D.Y. Chandrachud and the Hon'ble Justice M.R. Shah of the Hon'ble Supreme Court in the case of ***State of Rajasthan Vs. Ashok Kumar Kashyap, 2021 SCC OnLine SC 314*** observed that “*At the stage of framing of the charge and/or considering the discharge application, the mini trial is not permissible.*”

The Division Bench of the Hon'ble Justice Abhay S. Oka and the Hon'ble Justice Rajesh Bindal of the Hon'ble Supreme Court in the case of ***Captain Manjit Singh Viridi (Retd.) vs Hussain Mohammed Shattaf, 2023 LiveLaw (SC) 462*** observed that *“The settled proposition of law is that at the stage of hearing on the charges entire evidence produced by the prosecution is to be believed. In case no offence is made out then only an accused can be discharged. Truthfulness, sufficiency and acceptability of the material produced can be done only at the stage of trial. At the stage of charge, the Court has to satisfy that a prima facie case is made out against the accused persons. Interference of the Court at that stage is required only if there are strong reasons to hold that in case trial is allowed to proceed, the same would amount to abuse of process of the Court.”*

Now, returning to the case diary and the materials on record. There is prima facie case and prima facie satisfaction that all the six accused persons including the present accused petitioners in common conspiracy with common mens rea and criminal intention committed the crime on hand by kidnapping the minor boy for ransom. Page by page of the CD, involvement of these accused persons with the other co-accused persons in devising the whole crime upon the minor victim boy has been prima facie established.

The submission of the accused persons is meritless and holds no water in it. The petition for discharge filed on behalf of the accuseds Ratan Khetrapal and Sudip Bhattacharjee @ Tilok stands **rejected** on contest and now, disposed of.

To **01.04.2024** for framing of charge. All the six (06) accused persons be produced on the date fixed. Inform the concerned correctional home.

Sd/-  
ASJ  
1<sup>st</sup> Court, Chinsurah

Sd/-  
Additional Sessions Judge,  
1<sup>st</sup> Court, Chinsurah