

S.T./03/19

S.C.113/18

Order No. 1

16.1.2019

16.1.2019 4 accused persons namely, Md. Musha, Md. Jahangir Gorami, Yasuddin Mallick, & Nasir Mallick are produced from J.C. the case appears to be committed by Ld. A.C.J.M., Serampore, on 06.9.18 against 3 accused persons namely, 1. Md. Musha, 2. Jahangir Gharami & Yasuddin Mallick. Ld. Adl. Sessn. Judge, 1st Court, took cognizance and transferred this case to this court for disposal. Thereafter, accused Nasir Mallick was arrested and the case in respect of him was committed to the Ld. Adl. Sessn. Judge, 1st Court, Serampore, where from the part record was transmitted to this court and accused Nasir Mallick also has been sent up for trial before this court. Another charge sheeted accused persons is still absconding namely, Md. Firoz.

Accordingly, case is taken up for charge hearing.

After hearing both sides and perusing the materials u/s 173 Cr. P.C. I find that there is sufficient ground for presuming that the accused committed punishable u/s 395/397/412 I.C. Accordingly, charge u/s 395/37/412 is framed against all the accused persons and the contents of the charge is read over and explained to the accused in vernacular in which they pleaded their innocence and claimed to be tried. By saying Amra Nirdosh.

To 22.2.9 for evidence of c.s.w. 1.

Issue summon accordingly.

S.T./03/19

S.C.113/18

Order No. 3

26.02.2019

All the 4 accused persons are produced from J.C. Thereafter, the bail application filed on behalf of the accused Nasim Mallick is taken up for consideration. Hd. Both sides. Considered. Perused the case record.

Ld. Av. for the accused Nasim Mallick submits before this court that accused Nasim Mallick is in J.C. since long. Moreover, the son of the accused is seriously ill and there is none to look after his son. He prays for bail on any condition as this court may deem fit and proper.

On the other hand, Ld. P.P. in charge raised strong objection. He submits before this court that C.S. has already been submitted in c/w the instant case, more over there is sufficient material against the accused in c/w the instant case and the alleged offence is very heinous in nature. Moreover, there is every chance of his abscondence of evading the due process of law. Actually, the accused was absconder and W/A & W.P. was issued against him and lastly, on 31.5.18 the case against him was filed for present. Subsequently, he was arrested and forwarded before this court in connection with the instant case.

Considering the situation, materials on record and the nature of gravity of alleged offence, I am not inclined to release the accused on bail. Accordingly, the bail prayer of accused at this stage, is considered and rejected.

Fix 25.3.19 for c.s.w. 1 & 2

26.3.19 for c.s.w. 3 & 4

Issue summon upon the witnesses.

To date for production and evidence.

D/c. By me:	Addl. Sessn. Judge,
	F.T.C., Serampore
A.S.J., Serampor	

Order No. 4
25.03.2019

Today is fixed for evidence of c.s.w. 1 & 2. All the 4 accused persons are produced from J.C. Ld. P.P. in charge is present with C.S.W. 1 & 2. Subsequently, an application has been filed on behalf of the accused persons u/s 231 Cr. P.C. along with a bail application on behalf of accused Nasim Mallick. Thereafter, both the applications filed on behalf of the accused persons are taken up for consideration. Hd. Both sides. Considered.

Perused the case record and bail application filed on behalf of the accused Nasim Mallick and application u/s 231 Cr. P.C.

On perusal of case record it appears that on last occasion i.e. on 26.2.19 considering the materials on record and gravity of alleged offence the bail prayer on behalf of accused Nasim Mallick was considered and rejected.

Ld. P.P. in charge raised strong objection in respect of the bail prayer on behalf of accused Nasim Mallick and the application u/s 231 Cr. P.C. filed on behalf of the accused persons.

Considering all aspects, having regards to the submission made by both parties, both the applications i.e. application u/s 231 Cr. P.C. and the bail application made on behalf of accused Nasim Mallick is considered and rejected.

P.W. 1 de facto complainant is examined in chief as p.w. 1 and at the time of his cross examination Ld. Adv. for the accused persons was found absent. However, the cross examination of p.w. 1 is hereby deferred.

To date for production of accused.

D/c. By me:

Addl. Sessn. Judge,
F.T.C., Serampore

A.S.J., Serampore

Order No. 8
10.07.2019

Today is fixed for further cross examination of p.w. 1. P.W. 1 is not present today. Subsequently, an application has been filed on behalf of the accused Md. Nasir praying for bail on the ground stated in the petition.

Ld. Advocate on behalf of the accused submits before this court that accused Md. Nasir has been falsely implicated in c/w the instant case. There is no chance of his abscondence or otherwise evading the due process of law. Ld. Advocate for the accused prays for bail on any condition as this court may deem fit and proper.

On the other hand, Ld. P.P. in charge raises strong objection. He submits before this court that the charge u/s 395/397/412 I.P.C. has been framed against the accused persons. There is sufficient materials in C.D. against this accused person.

I have gone through the case record and C.D.

Considering the nature and gravity of alleged offence and materials on record, I am not inclined to release the accused person Md. Nasir on bail. Accordingly, the prayer for bail is considered and rejected. Ld. Advocate for the accused further submits that the copies of the case record has not yet been supplied to the accused Md. Nasir. He prays for supply of copies to the accused Md. Nasir who was subsequently arrested and forwarded before this court in c/w the instant case.

Considering the situation the prayer of accused for supply of copies is allowed. Ld. P.P. in charge is

(2)

directed to supply the copies of the accused Md. Nasir.

Accused be remanded to the J.C. till 02.08.2019.

Fix 02.08.2019 for production and evidence.

D/c. By me:

Addl. Sessn. Judge,
F.T.C., Serampore

A.S.J., Serampore

S.T. 03 of 2019

Order No. 12
09.09.2019

Today is fixed for hearing of the petition filed on behalf of the accused Yasuddin Mallick @ Kalu who is in J.C. at Hooghly Correctional Home. Ld. Advocate for the accused Yasuddin Mallick is present. He submits before this court that accused Yasuddin Mallick @ Kalu has been suffering from skin disease and immediate necessary medical treatment is highly required. He prays for an order directing the Superintendent of Hooghly Correctional Home to provide necessary medical assistance to the accused.

Hd. Considered. Prayer is allowed.

Superintendent, Hooghly Correctional Home is directed to provide medical assistance to the accused Yasuddin Mallick @ Kalu, if requires.

To date.

Let a copy of this order be sent to the Superintendent, Hooghly Correctional Home, for his compliance.

D/c. By me:

Addl. Sessn. Judge,
F.T.C., Serampore

A.S.J., Serampore

IN THE COURT OF ADDL. SESSIONS JUDGE,
FAST TRACK COURT, SERAMPORE

S.T. 03 of 19

Serampore P.S. case No. 02 of 18

G.R. No. 04 of 2018

State

Vs.

Yasuddin Mallick & Others

Order No. 12
09.09.2019

Today is fixed for hearing of the petition filed on behalf of the accused Yasuddin Mallick @ Kalu who is in J.C. at Hooghly Correctional Home. Ld. Advocate for the accused Yasuddin Mallick is present. He submits before this court that accused Yasuddin Mallick @ Kalu has been suffering from skin disease and immediate necessary medical treatment is highly required. He prays for an order directing the Superintendent of Hooghly Correctional Home to provide necessary medical assistance to the accused.

Hd. Considered. Prayer is allowed.

Superintendent, Hooghly Correctional Home is directed to provide medical assistance to the accused Yasuddin Mallick @ Kalu, if requires.

To date.

Let a copy of this order be sent to the Superintendent, Hooghly Correctional Home, for his compliance.

Sd/-

D/c. By me:

Addl. Sessn. Judge,
F.T.C., Serampore

A.S.J., Serampore

No. 285 Dated 09.09.2019

Copy of order forwarded to Superintendent,
Hooghly Correctional Home, for information and
compliance.

Addl. Sessn. Judge,
Fast Track Court, Serampore

Order No. 13
27.09.2019

Today is fixed for further examination in chief of p.w. 1. All the 4 accused persons are produced from J.C. Ld. P.P. in charge is present with p.w. 1 for his further examination in chief. P.W. 1 is further examined in chief, cross examined in full and discharged. Subsequently, a bail application has been filed on behalf of the accused persons praying for bail on the grounds stated in the petition.

Ld. Advocate appearing on behalf of the accused persons moved the bail application. They submit before this court that the accused persons are entirely innocent and they have been falsely implicated in c/w the instant case. Moreover, the accused persons are in J.C. since 8 to 9 months in c/w the instant case. There is no chance of their abscondance or otherwise evading the due process of law. The daughter of the accused Nasir Mallick is seriously ill and for the arrest and detention of accused Nasir Mallick the medical treatment of his daughter is affected. They pray for bail of the accused persons on any condition as this court may deem fit and proper.

On the other wise, Ld. P.P. in charge raised strong objection. He submits before this court that the trail of this case is on process and there is sufficient incriminating materials against all 4 accused persons. Moreover, the accused persons were identified during T.I. parade. If the accused are released on bail they will hamper the trial of this case. One of the co-accused is still absconding and W.A. against him is pending for execution.

(2)

I have gone through the case record. This is a case u/s 395/397/412 I.P.C. The trial of the case is in process. Considering the materials on record, nature and gravity of the alleged offence, I am not inclined to release the accused persons on bail. Accordingly, their prayer for bail is considered and rejected.

To 18.1.19 for hearing of petition u/s 311 Cr.P.C. filed by the Ld. P.P. in charge and production of accused.

D/c. By me:

Addl. Sessn. Judge,
F.T.C., Serampore

A.S.J., Serampore

S.T. 03 of 2019

Order No. 16
18.11.2019

Today is fixed for hearing of the application u/s 311 Cr. P.C. filed by Ld. P.P. in charge praying for recalling the p.w. 1 for his further examination in chief on the grounds mentioned in the petition. Thereafter, the case record is taken up for hearing of the petition dated 05.09.19 filed by the Ld. P.P. in charge.

The main contention of the petition filed by the Ld. P.P. in charge is that p.w. 1 Sri Somnath Chakraborty has been examined in chief, cross examined in full and discharged on 27.09.19, but due to inadvertently some documents i.e. seizure list dated 23.02.18, 19.02.18 & the report of power failure or load shedding at the time of alleged incident was not exhibited on behalf of the prosecution. Such documents are highly required to be executed for the proper and fair adjudication of the case.

On the other hand, Ld. Advocate appearing on behalf of the accused persons raised strong objection. They submitted before this court that the prosecution has filed the instant petition to fill up the lacunae of the case. As such the instant petition of the Ld. P.P. in charge deserves to be rejected.

I have heard both sides, perused the case record and the evidence of p.w. 1.

Considering the all aspects, I am of view that the exercise of power u/s 311 Cr.P.C. should be resorted only with the object of findings out the truth or obtaining proper proofing of such fact which leads to just and correct decision of the case.

In view of above I find tht the petition filed by the Ld. P.P. in charge commands merit and deserves to be allowed for the proper and fair adjudication of the case.

Hence, it is,

O R D E R E D

that the application u/s 311 Cr. P.C. filed by the Ld. P.P. in charge is considered and allowed.

D/c. By me:

Addl. Sessn. Judge,
F.T.C., Serampore

A.S.J., Serampore