

Special Case No 188 of 2023
CNR No. WBHW01-003225-2023
Present : Sri Plaban Mukherjee (J.O Code : WB01427)

Order No.03. dated : 01.12.2023

Today, the date is fixed for production of the accused person.

The accused person, namely, Srikanta Sarkar @ Moni is produced from Uluberia Correctional Home. He is taken into custody and remanded to J.C till the next date.

Upon perusal of the case record, it appears that charge-sheet being No669 of 2023 dated 17/11/2023 under section 409/420/406/506/34 IPC is submitted against the two accused persons, namely, Srikanta Sarkar @ Moni and Bhupal Moni before the Court of Ld. A.C.J.M, Uluberia on 18/11/2023.

Perused the charge-sheet. Cognizance is taken.

Upon perusal of the charge-sheet, it appears that one of the accused persons, namely, Bhupal Moni, son of Late Sudhir Moni of Village and P.O – Barunda, P.S – Bagnan, District – Howrah is still absconding and the I.O has prayed for issuing W.A against him.

Hence, issue warrant of arrest against the absconding accused person.

At this stage, Ld. Advocate for the accused petitioner files a petition supported by an affidavit praying for bail on the ground stated therein. Copy served. Let it be kept with the record.

Ld. PP-in-Charge is present with the C.D.

Ld. Advocate for the accused person is also present.

Now, the petition praying for bail is taken up for hearing.

Ld. Advocate for the accused petitioner submitted that he has been falsely implicated in this case and he is in custody in this case since 22/08/2023. It is further submitted that the present de facto complainant falsely filed another case over the self same alleged incident and Hon'ble High Court at Calcutta vide order dated 26/07/2022 in CRR No.1911 of 2021 has been pleased to quash the said second F.I.R, registered being Bagnan P.S Case No.74 of 2021 dated 13/02/2021. It is further submitted that the Hon'ble High Court at Calcutta has been pleased to reject an application u/s 438 Cr.P.C of the accused petitioner at the stage of investigation on 08/09/2021 in CRM No.2270 of 2021 and since then, no other bail petition was filed before the Hon'ble Court either u/s 438 Cr.P.C or u/s 439 Cr.P.C. It is further submitted that It also appears from the medical documents submitted the accused petitioner is suffering from various ailments and used to take several medicines on regular basis. Ld. Advocate files copy of the order dated 08/09/2021 and 26/07/2022 of the Hon'ble Court and copy of the complaint of Bagnan P.S Case No.74 of 2021 dated 13/02/2021. Let those be kept with the record.

Ld. PP-in-Charge raised objection against the bail prayer of the accused petitioner. It is further submitted that there is no note in the C.D showing rejection of any bail petition of the accused petitioner by the Hon'ble High Court at Calcutta u/s 439 Cr.P.C.

Perused the bail petition, the case record and comparing the same with the C.D including the statement of witnesses, it appears that the accused petitioner is shown arrest in this case on 22/08/2023 and since then, he is in custody. It further appears that the charge-sheet being Bagnan P.S Charge-sheet No.669/2023 dated 17/11/2023 u/s 409/420/406/506/34 IPC was submitted against the two accused persons, namely, Srikanta Sarkar @ Moni and Bhupal Moni, out of whom, one accused person is still absconding and there is no immediate possibility of commencement of trial. It also appears that the accused petitioner is in custody for more than 90 days.

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It also appears from the documents, supplied by the accused petitioner that the Hon'ble High Court at Calcutta has been pleased to reject the bail prayer of the accused petitioner u/s 438 Cr.P.C on 08/09/2021 in CRM No.2270 of 2021 during investigation.

It also appears from the medical documents submitted by the accused petitioner on earlier date, lying in the case record that he is suffering from various ailments.

Under above facts and circumstances, I am inclined to allow the prayer of bail of the accused petitioner at this stage.

Hence, it is

ORDERED

that the accused/ petitioner, namely, Srikanta Sarkar @ Moni may find an interim bail of Rs.5,000/- with two sureties of Rs.2,500/- each, subject to the satisfaction of Ld. C.J.M, Howrah i.d. to J/C with a condition that the accused petitioner shall not intimidate any witness or tamper with the evidence of this case.

If on bail, to 11.12.2023 for appearance of the accused person.

Let a copy of this order be sent to Ld. C.J.M., Howrah for information.

Return C.D.

Dictated & Corrected by me.

SPL Court-II, Howrah.

Judge, Special Court-II, Howrah.