

Sessions Serial No. 55/2021

Order No. 27 dated 17.08.2022

As per Order No. 26 dated 12.08.2022, the bail petition of accused Shah Hossain Mollick @ Sahossen Mallik is taken up for hearing.

Ld. Advocate for the accused submitted that vide Order No. 5 dated 29.11.2021 this accused along with another accused person surrendered before this court and they were taken into custody. He further submitted that on the next day i.e. on 06.12.2021 a charge was framed against the accused persons and they pleaded not guilty. It is further submitted that vide Order No. 3 dated 11.01.2022 the other accused, namely, Fani Bibi @ Funu Bibi @ Phunu Bewa was released on interim bail and since then she has been appearing on each and every date at court. It is further submitted that all the eight number of independent prosecution witnesses were examined and cross examined and only the doctor and the IO are left to be examined.

Ld. Advocate for the accused persons mentioned one erudite judgment of the Hon'ble Supreme Court (Satender Kumar Antil vs. Central Bureau of Investigation, decided on 11th July, 2022) submitted that the present accused has voluntarily appeared before this court and faced trial. He submitted further that the accused is innocent and he is not an FIR named accused and stands on the same footing with the other accused on bail. He further submitted that considering all and as a matter of norm the court should presume the accused as innocent. He further submitted that the accused belonged to a poor family and never moved before Hon'ble High Court or at any higher forum. It is submitted further that there is no reason to believe that the accused may evade trial. The accused is a local man having definite abode and prayed for bail at this stage on any condition.

Ld. P.P in-charge, so far the surrender, framing of charge and examination of eight witnesses are concerned has conceded to such submission. He raised formal objection and left the matter to the discretion of this court.

Heard both sides.

I find that the accused is not named in the FIR though CS has been submitted against him and the trial is nearing to complete. It is fact that he has voluntarily surrendered before this court and there is no chance of his abscondence. There is no scope for this accused to influence any of the independent witness of the prosecution as they have already been examined. The other accused on the same footing was released on interim bail.

Considering the entire facts and circumstances and considering the submission of both sides and materials on record, I find no prejudice would be caused to the prosecution, if the accused is released on interim bail with a condition to appear before this court on every date of trial till the conclusion of trial. Hence, the accused Shah Hossain Mollick @ Sahossen Mallik may find interim bail of Rs.10,000/- with two sureties of Rs.5,000/- each on condition to be present on every date of trial till the conclusion of this case, subject to the satisfaction of Id. CJM, Murshidabad, i/d to J/C.

To date (07.09.2022) for appearance, if on bail.

Let a copy of this order be sent to Id. CJM, Murshidabad for information and taking necessary action.

Dictated & Corrected
by me

A.S.J.

Additional Sessions Judge, 3rd Court,
Berhampore, Murshidabad.
(JO Code. WB00616)
17.08.2022.