

Sessions Serial No. 600/2023 (P-1/2)

Order No. 4 dated 16.12.2023

Bail petition filed on behalf of accused Julfikar Sk is taken up for hearing as scheduled.

Ld. PP in-charge Mr. Mitabhra Dhargupta as well as Ld. Advocate for the accused are found present. CD is produced. Perused.

Ld. Advocate Smt. Sumana Sinha appears with Vokatnama this day on behalf of the defacto complainant, with a petition praying for rejection of the bail application of the said accused on the grounds stated therein.

Ld. Advocate for the above named accused, has prayed for bail of the accused on the ground that, the accused is innocent and the other co-accused persons are on bail. He prays for bail of the accused on any condition.

Ld. PP in-charge has raised strong objection against the prayer for bail, relying upon the statement of the witnesses u/s 164 of Cr.P.C., further submitting that the bail petitions of the accused were rejected twice by the Ld. Sessions Judge, Murshidabad.

Ld. Advocate Smt. Sumana Sinha for the defacto complainant, submits that the complainant side is under constant threat of life from the accused side, for which, specific petition of bail objection has been filed today as above.

Heard Ld. Advocates of all sides. Perused the case record. Considered.

Ld. Defence Counsel submitted that amongst 21 charge sheeted accused, 19 accused persons are already on bail, co-accused Rintu Sk in J/C is the principal accused as per observation of the Hon'ble Court, while rejecting the bail order of accused Rintu Sk vide CRM 1024/2023, in this case u/s 302/34 IPC; whereas, the present accused-petitioner Julfikar Sk has never preferred any bail prayer before the Hon'ble Court, nor his bail prayer was rejected accordingly and further that this accused has voluntarily surrendered before Ld. Court. As such, Ld. Defence Counsel prays to allow the bail prayer of the present accused on any condition, considering his voluntarily surrender on 16.05.2023, as he had at first preferred prayer for anticipatory bail, which being turned down by Ld. Sessions Judge, Murshidabad, the said accused voluntarily surrendered before the Ld. Court; as such, he cannot be said to be "absconding accused" and fact remains that he will not abscond also. Ld. Defence Counsel added that the statements u/s 164 Cr.P.C were belated. Considered.

Ld. PP in-charge submitted that this is a brutal murder case and while rejecting bail prayer of the accused, Ld. Sessions Judge, Murshidabad has observed regarding the role of this accused in this case; that apart, on the basis of materials in the statements u/s 164 Cr.P.C of witness Ruhab Sk and Sajirul Islam, the role of this accused has also been highlighted in the concerned order dated 21.03.2023 of the Hon'ble Court vide CRM 1024/2023, he being mentioned as "absconding accused", having shot at the victim resulting his death along with co-accused Rintu Sk. Moreover, Ld. PP in-charge added that, in course of investigation the accused had not voluntarily surrendered before this Court, which proves his evading attitude; but, only after submission of CS No. 01 dated 09.01.2022 wherein he has been shown as absconding and WP & A has been issued against him, thereafter, on 16.03.2022, vide CrI. Misc.

Sessions Serial No. 600/2023 (P-2/2)

Order No. 4 dated 16.12.2023 (Contd.)

Case No. 440/2022, his anticipatory bail was rejected by Ld. Sessions Judge, Murshidabad, then on 16.05.2023, that is after two years of the incident, he had off-late surrendered before the Ld. Court, for which, the said surrender cannot be termed as voluntary, but was practically due to the pressure of pending warrant, as he did not at all cooperate with the investigation of the case. Considered.

From the submissions of both sides and the materials on record, it is clear that the present accused-petitioner was absent in course of investigation; after CS No. 01 dated 09.01.2022 u/s 302/120B/34 IPC and u/s 25/27 Arms Act received on record on 15.01.2022 was submitted showing him as absconding, at that time, he approached the Ld. Sessions Court for anticipatory bail, which was rejected; then, considerable period passed away and off-late, this accused has surrendered on record. Accordingly, the submission of prosecution in this context is quite justified, thereby causing sufficient delay in proceeding with this serious sessions case, in which supplementary charge sheet no. 83 dated 22.04.2022, being received on record on 26.04.2022 has also been submitted. Moreover, bail prayer of the co-accused Rintu Sk was rejected vide CRM 1024/2023 in the Hon'ble Court, pointing the allegations not only against the said co-accused, but also against the present accused petitioner, relying upon the statements u/s 164 Cr.P.C as stated above, for which those statements are sufficiently reliable.

In the above facts and circumstances, this Court thinks that it will be highly risky to enlarge the present accused on bail.

Hence, the bail petition dated 15.12.2023 of accused Julfikar Sk is hereby considered and the same stands rejected.

CD be returned.

Dictated & Corrected
by me

A.S.J.

Additional Sessions Judge, 3rd Court,
Berhampore, Murshidabad
(JO Code. WB00671)
16.12.2023.