

CNR No: WBSP01-012026-2023

Present: Subhra Som Ghosal

J.O Code: WB00984

SC Case No: 34 (08) of 2023

Order No. 14, dated: 25-01-2024.

All that the accused persons namely **A1) Mainuddin Molla @ Madhu @ Mahiruddin Molla @ Bhadu, A2) Sukur Sk @ Sukur Ali Sk, A3) Ajaruddin Sk, A4) Ayamad Ali Sanpui, A5) Bapi Molla, A6) Pintu Molla, And A7) Aizul Jamadar@ Molla** have been produced from J/C.

As stipulated by the previous order today is fixed for production of the accused persons and hearing of the bail application as submitted by the accused persons namely **A1) Mainuddin Molla @ Madhu @ Mahiruddin Molla @ Bhadu, A2) Sukur Sk @ Sukur Ali Sk.**

On call Ld. Advocates for the accused persons as well as the Ld. Public Prosecutor-in-charge are found to be present.

Hence the case record is taken up for hearing of the bail application.

The submission advanced by the Ld. Lawyer for the accused persons was delicately poised on the fact of prolonged incarceration of the accused persons as well as discrepancies in the statements recorded under section 161 and 164 of the Criminal Procedure Code 1973. Pinning reliance on these aspects and emphasizing on the ground of false implication of the accused persons, the Ld lawyer for the accused persons prayed for bail on any condition.

Ld P.P-in-Charge raised objection to such prayer and inviting my attention to the materials, it was argued, that a clear case has been well made out and release of the accused persons is also prohibited as bail prayer of a co-accused person under section 439 of the Code of Criminal Procedure, 1973 has been rejected by the Hon'ble High Court.

I have passionately introspected the materials exposted before me and have no dichotomy to conclude that the materials collected by the Investigating Officer and reflected through the Charge-sheets, lend tremendous assurance to the version of the Ld P.P-in-Charge and at this stage it would be highly unsagacious to accept the proposition ventilated by the Ld lawyer for the accused persons. This Court cannot be oblivious of the fact that the accused persons have been indicted for allegedly committing offences punishable under section 302 of the Indian Penal Code, 1860 and the leverage of bail cannot be extended to the accused person relying on the solitary plank of "period of detention".

It is further axiomatic from the submissions advanced; that one of the accused person preferred bail petition under section 439 of the Code of Criminal Procedure 1973 before the Hon'ble High Court and such venture of the accused person has been truncated by the Hon'ble High Court. Thus there is no room for obscurity and judicial discipline comity and concomitance demands that this Court should be pioneered by the observations of the Hon'ble High Court.

Hence as an obvious outcome prayer for bail stands rejected at this stage.

On query by this Court the accused persons submitted that they have been supplied with copies by the Investigating Officer.

Hence there is no predicament in taking up case for consideration of charge.

At this stage the one of the accused person namely **A3) Ajaruddin Sk** submitted that he has no Ld. Advocate to represent him and he needs proper representation.

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Today none has appeared before this Court on behalf of the accused person namely **A3) Ajaruddin Sk.** That being the position; in order to hoist the right of the accused person to get legal advice and get a fair trial, I am of the un-hestitant opinion that the accused person should be provided with a Ld. lawyer to act on his behalf. This finding of mine is ratified by Section 304 of the Criminal Procedure Code 1973 and Article 21 and Article 22 of the Constitution.

Hence the Ld. Chief Legal Aid Defence Counsel is requested to appear on behalf of the accused person namely **A3) Ajaruddin Sk** or assign the matter to any other Ld. Legal Aid Defence Counsel and represent the accused person in the course of this trial.

The Ld. Public Prosecutor-in-charge is requested to ensure service of copies to the Ld. Legal Aid Defence Counsel prior to the next date so that there is no further delay in the trial.

Let a copy of this order be given to the Ld. Chief Legal Aid Defence Counsel, South 24 parganas for compliance. Inform Ld. Public Prosecutor-in-charge.

In the facts and circumstances there is little scope to proceed with framing of charge.

Hence the case is adjourned on this date.

The accused persons are remanded to J/C and be produced on 05-02-2024.

Fix 05-02-2024 for consideration of charge and further order.

Typed to the dictation directly;

corrected on the system.

Sd/-Subhra Som Ghosal

Additional District and Sessions Judge,

01st Court, Alipore, South 24 parganas.

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