

L A T E R
Dt. 19.07.2016.

Now the case is taken up for hearing bail petitions.

Two accused petitioners namely, Rafikuddin Molla and Manchhep Halder earlier filed two separate Criminal Misc. Case u/s. 439 of Cr.P.C. vide Criminal Misc. Case No. 164/16 and 149/16 respectively.

After filing of the said bail petitions u/s. 439 of C.P.C. the case has been committed to this Court. Hence, those bail petitions are taken into the file of this S.C. No. 1(7)16 and are treated as bail petitions of this Sessions Case.

Both bail petitions are taken up for hearing together in presence of Ld. Counsels for the accused petitioners and the Ld. P.P.-in-Charge.

Ld Advocate for the accused petitioners prays for bail on behalf of accused petitioner Rafikuddin Molla on the following grounds :-

1. that the defacto complainant is the resident of Shibnagar which is far away from the P.O.
2. Th defacto complainant in his written complaint he has mentioned that the F.I.R. named accused persons and others set upon the deceased with deadly weapons and explosives and thereafter and hacked him to death. But out of the said F.I.R. Named accused, the F.I.R. named accused Nos. 11, 12,14, and 16 have been prayed for discharge by the I.O. and not sent up in the Charge Sheet which indicates that FIR maker is not free from doubt.
3. The investigation regarding the alleged offence was started on 24.03.2016 but the **witnesses** in whose statements the name of the accused petitioner transpires as conspirator of the alleged crime, **were examined after astonishingly belated stage after elapsing more than two months.** Ld. Advocate submits that the said statements have been designed only to falsely implicate the present accused petitioner to the alleged offence.
4. Ld Advocate also submits that the best witness of the prosecution witness, i.e. Jahanagir Bhangi, has not mentioned has not mentioned the name of the

accused petitioner Rafikuddin Molla in his statement u/s. 161 and 164 of Cr.P.C.

5. By referring to the statements of the witnesses found in Page No. 207, 181 (Statement of Yusuf Jatua); Page No. 209 and 183 (Statement of Osman Khan); No. 210 and 199 (Statements of Osman Sk.) Ld. Counsel submits that their statements are based on surmise and they have not seen the accused at PO.

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Regarding accused petitioner Monchhep Halder Ld. Counsel submits that the case has committed and therefore, there is no ground for detention of the accused petitioner in custody unless any special ground is shown for curtailing the personal liberty.

Ld. P.P.-in-Charge vehemently opposed the prayer for bail and he banked upon the some G.D. Entries vide Nos. 675, 677 dated 13.07.16, Nos. 719, 720 dated 14.07.16 Nos. 796, 798 both dated 15.07.16, Nos. 960 and 961 both on 18.07.16. All of which are lodged with Dholahat P.S.stating allegation of threat .

Ld. P.P.-in-Charge submits that the family members of the accused petitioner are threatened and therefore, bail petition should be rejected.

Ld. P.P.-in-Charge also submits that the accused petitioner is an influential person and he has capacity to influence the witnesses. In this regard my view is that the accused petitioner belong to almost diminished rival camp.

P.P.-in-charge also argued that the accused petitioners may avert the trial by absconding and their past activity during the investigation stage justified the said assumption.

Regarding accused petitioner Monchhep Halder Ld. P.P.-in-charge draws the

attention of the Court to the statements of Asan Ali, Bhola Halder, Taibur Hossain Halder,

Abdur Rafique Bhangi, Paritosh Halder, Mahachin Ali and Abdur Khaer Mufti he also draws the attention of Court to the statement of Ajodhya Naskar.

Ld. PP.-in-Charge submits that the bail petition of two accused namely, Sanjiban Sardar and Akraj Molla @ Bchcha have been rejected by the Hon'ble Court today.

Considered the aforesaid respectie submissions.

I have appreciated the submissions of the Ld. Counsel for the accused petitioner Rafikuddin Molla in the light of the material on record. I find strength in the said submission.

Regarding other accused petitioner Monchhep Halder there is scanty of direct material.

The entire case is based on circumstantial evidence. It is true that regarding statement of Yusuf Jatua, Osman Khan and Osman Sk., there is scope for entertaining serious doubt as their statement were recorded after long delay.

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The material against accused Sanjiban Sardar and Akraj Molla, whose bail prayer have been earlier rejected, is completely different.

However, considering the aforesaid G.D. Entries and nature of the case the prayer for bail filed on behalf of **Rafikuddin Molla** and **Monchhep Halder** are rejected.

To 06.08.2016 for consideration of charge and production of all the accused persons.

Dict. & Corr. by me,

(P.P. Chakraborty)
Addl. Dist. & Sessions Judge,
Kakdwip, South 24-Parganas

(P.P. Chakraborty)
Addl. Dist. & Sessions Judge,
Kakdwip, South 24-Parganas