

Sessions. 60/2024
WBUD01-001007-2024

(Ref: Kaliyaganj PS case no.539/2023 dt.24.12.2023)

Present:- Sri Partha Pratim Chakravorty(WB01277)
Sessions Judge, Uttar Dinajpur at Raiganj
02/16.03.2024

All the three (3) accused persons are produced from J/C.

Record is taken up for hearing of the bail application in connection with the instant case record.

On perusal of the bail application, I find that both the bail applications have been filed prior to the commitment of the case record by the Ld CJM, Uttar Dinajpur to this Ld Court u/s 209 Cr.P.C and the said bail applications have been registered as Crl Misc Case no.317/2024 and Crl Misc case no.420/2024. As because the position of the case record has changed and the same has already been committed to this Ld Court and a new case being Sessions case no.60/2024 has already been inscribed in the case record, so some technical complexity will arise if the bail applications being Crl Misc case as referred to above are taken up for adjudication and relevant orders are passed in the same. Today, I find that the date is fixed for production of the accused persons after the commitment of the case record to this Ld Court.

Ld Advocate representing the accused/petitioners in the face of such a situation prays for leave to withdraw the instant bail application with a liberty to file fresh.

Accordingly, leave is granted to the Ld Advocate representing the accused/petitioners to take steps in accordance with law by withdrawing the bail application. The aforesaid bail application being Crl Misc Case no.317/2024 & 420/2024 are dismissed as withdrawn.

Dictd. & cortd.

S.J.

Sessions Judge, U/Dinajpur.

Later:

03/16.03.2024

A bail petition is filed from the end of all the accused persons namely **1. Bhramar Sarkar, 2. Amal Sarkar and 3. Mithun Sarkar** of the instant case. Let the same be kept with the record.

A petition of objection to the prayer for bail is filed along with Vokatnama from the end of the complainant by the representing Ld Advocate.

Both the Ld Chief PP and the Ld Advocate for the accused persons are present.

Ld Advocate for the accused persons at the very first instance ventilates the present stage of the case record which after being committed to this Ld Court by the Ld

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Court below is awaiting the commencement of trial. As per Ld Advocate for the accused persons, the accused persons are languishing in custody since a long period of time and at this stage of the case record, no effective result will be attained by keeping these accused persons in further detention. More fully, it is also highlighted from the end of the accused persons by the representing Ld Advocate that on perusal of the materials in the case record specially the documents which have been filed by the investigating officer along with the charge sheet, no concrete and impeccable piece of evidence can be unearthed which will pinpoint the involvement of the accused persons specially the accused persons namely Amal Sarkar and Mithun Sarkar in any manner whatsoever in the dastardly act which extinguished the life of the victim. To be more precise, it has been highlighted by the Ld Advocate for the accused persons that even if, some allegations or incriminating substance are present in the case record, those will point towards the accused persons namely Bhramar Sarkar and not the rest two as named above. With those submissions, Ld Advocate representing the accused persons has prayed for enlargement of the accused persons on bail under any stringent terms and conditions, the Ld Court deems fit and proper.

Ld Chief PP opposes the prayer for bail of the accused persons and at the very first instant emphasized on the gravity of the allegations leveled against the accused persons of indulging themselves in a horrific incident which put an end to the life of the victim. More so, Ld Chief PP also ventilated that the documents that have evolved in the CD through the investigation process will squarely pinpoint the pro-active role played by the accused persons in an omnibus manner in the commission of the alleged offence. As per Ld Chief PP, the case record is otherwise ready for trial post commitment and at this stage it will not be a prudent approach for this Ld Court to grant the benefit of bail to the accused persons.

Ld Advocate representing the complainant vehemently opposes the prayer for bail of the accused persons and by adopting the submissions advanced from the end of the prosecution envisages that the heinousness of the offence being committed in a barbaric manner thereby occasioning the death of the victim by electrocution, does not leave any room for the Ld Court to show any mercy to the accused persons while adjudicating the bail prayer advanced from their end. It is also ventilated from the end of the complainant that the instant case is a fit one in all respects and norms to go for custody trial.

Heard the submissions advanced from all sides. Perused the materials that have surfaced in the CD through investigation process as well those present in the LCR being filed along with charge sheet.

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It is on record that the case has reached the stage of trial after being committed to this Ld Court from Ld Court below and the accused persons as noted above are languishing behind the bars since a long period of time. On a meticulous appreciation of the contents of the CD and the LCR in a punctilious manner, I find that the documents that have come up in this case in a cumulative manner hints towards the presence of substantive materials against the accused persons namely Bhramar Sarkar and Amal Sarkar pertaining to the incident which occurred a horrendous manner and occasioned the death of the victim. So, I think that it will not be a prudent approach for the Ld Court to confer the benefit of bail to these accused persons even at this stage of case record. Accordingly, prayer for bail in respect of accused persons namely **Bhramar Sarkar and Amal Sarkar is rejected.**

But, with with respect to remaining accused namely **Mithun Sarkar**, I do not find from the four corners of the CD as well as case record, any inculpatory materials which may restrict me to consider and allow the prayer for bail of this accused.

By resting on these observations, I am inclined to allow the prayer for bail of accused **Mithun Sarkar.**

Accused namely **Mithun Sarkar** may find bail of Rs.12,000/- with two sureties of Rs.6,000/- each, **out of which one must be local/cash**, subject to the satisfaction of Ld CJM, Uttar Dinajpur at Raiganj, id to C.H, with conditions as follows:- **1.** He shall attend the Ld Court on each date fixed without fail. **2.** He shall not exercise any influence over the witnesses or tamper with the evidence in any manner whatsoever and **3.** He shall not intimidate the complainant and his family members in any manner. If released on bail the aforesaid accused must appear before this Court on 01.04.2024.

Fix 01.04.2024 for production/ appearance.

Let a copy of this order be sent to Ld CJM, Uttar Dinajpur for information and taking necessary action.

Dictated & Corrected by me,

Sessions Judge,
Uttar Dinajpur at Raiganj.

Sessions Judge,
Uttar Dinajpur at Raiganj.

