

CNR WBUD01-002107-2024, J.O.CODE WB01014

Sess. Case no.138/24

08/02.04.25

Today is fixed for hearing petition dt. 27.03.25, filed on behalf of the accd namely Ratan Sarkar for bail.

Ld. advocate for the petitioner/ accd is present and filed another petition for bail.

Seen. Let the same be kept with the record and taken up together with petition dt. 27.03.25 for hearing.

Ld. P.P is also present with CD.

The IO of this case SI Supratik Dikshit is present and filed objection of bail for the accd Ratan Sarkar. Seen.

Ld. advocate for the petitioner/ accd submitted that at the time of arrest his client was not informed about the grounds of arrest and his near relatives were not informed by the arresting police officer which was a mandate as per law. Ld Counsel by referring the Memo of Arrest of Ratan Sarkar dtd. 10.02.24 further submitted that as per column no. 1(e) , the police 'informed over telephone' only about the arrest of the accused and in column no. 10, took signature of one Bappa Debnath without mentioning his proper address or how he was related with the accused. Ld Counsel referred the Judgement of the Hon'ble Apex Court passed in Criminal Appeal @ SLP (Crl.)13320 of 2024 [Vihaan Kumar – Vs – State of Haryana & Anr.] and submitted that as his client was not informed by police the ground of his arrest , at the time of arrest , mere filling up the 'Memo of Arrest' cannot be considered as an intimation of the ground of arrest and accordingly, such arrest was a clear violation of constitutional mandate under article 22 (1). Ld Advocate prayed for bail for his client on any term and condition.

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Ld PP opposed the prayer for bail of the accused person and submitted that at the time of arrest, the accd was duly informed about the ground of his arrest and the 'Memo of Arrest' shows that at the time of arrest the relative of the accused was informed over telephone. Moreover, the arrest was held in presence of one Bappa Debnath who in relation is the brother-in-law of the accd Ratan Sarkar. So, the accd of this case was arrested after following all legal procedure.

Ld P.P by producing the CD further argued that after committing the offence, the accd remained absconding and subsequently was arrested by police and his such conduct clearly shows that he was well aware about the offence, committed by him. Moreover, it has been clearly noted in the CD that during the procedure of arrest, the ground of arrest was duly been communicated to the accd person. So, at this stage of trial, the plea as taken by the accd is baseless. Ld P.P prayed for rejection of the prayer for bail of the accd.

I have perused the entire materials on record from which it reveals that the accd person has been detained in custody since the date of arrest, ie. on 10.02.24. Charge has already been framed against this accused person on 23.09.24 and after framing of charge, dates were fixed for evidence and two PWs have been examined till date.

It further revealed from the CD as well as Memo of Arrest that at the time of arrest, the accd was duly communicated the ground of arrest and it is quite astonishing that suddenly at the time of trial, the accd recalled that during arrest, he was not informed about the reason of his arrest by police whereas this was not raised by him since trial has been commenced.

I have also gone through the Judgements and orders of the Hon'ble Apex Court as well as other Ld Courts, referred by the Ld Defence Counsel in support of his submission and I am of opinion that the fact and situation of this case is not identical with the fact and situation of those cases and accordingly, the same is not applicable here at this stage in favour of the accd/petitioner.

Hence, in view of the above discussion,

I am not inclined to allow the prayer for bail of the petitioner/ accd Ratan Sarkar as there was no incident of non-compliance of the mandate of the CrPC which has been introduced to give effect to Article 22(1) of the Constitution of India, 1950, at the time of arrest of Ratan Sarkar, as alleged by the Ld Defence Counsel.

Therefore, the bail prayer of accd Ratan Sarkar is considered and rejected.

To date (28.04.25).

Dictated by me

Judge

ADJ,FTC-I,Raiganj, U/D.