

19.12.2022

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Allowed

C.R.M. (DB) No. 4272 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kaliachak Police Station Case No. 88 of 2020 dated 29.01.2020 under Sections 489B/489C/120B of the Indian Penal Code.

And

In Re : Merajul Hoque petitioner

Mr. Ramdulal Manna
Ms. Manju Manna (Dey)
Mr. Sayan Mukherjee

.....for the petitioner

Mr. Saibal Bapuli, learned APP
Mr. Arani Bhattacharyya

.....for the State

Report filed by the learned Counsel appearing for the State be kept with record.

We are surprised to note though counterfeit notes were recovered from Shankar Mahato, S.I. Sirajuddin Sarkar (1st Investigating Officer) prayed for his discharge. Only after a co-ordinate Bench of this Court directed investigation into the matter, further investigation was launched and warrant of arrest has been issued against said Shankar Mahato. No recovery was made from the possession of the petitioner. In view of extent of complicity of the petitioner in the crime, we are of the opinion that he may be released on bail.

Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Malda, subject to conditions that he shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event he fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed.

We are disturbed by the conduct of S.I. Sirajuddin Sarkar (1st Investigating Officer) who prayed for discharge of Shankar Mahato. Subsequent S.I. Pabitra Mahato also endorsed such stance. It was also approved by the then I.C. Kaliachak Police Station. Prima facie, their conduct appears to be in gross dereliction of their statutory powers to investigate. In stead of pursuing the principal accused, the petitioner was arrested and has languished in custody for more than two years.

Director General and Inspector General of Police is directed to take note of the aforesaid conduct of the aforesaid police officers and initiate disciplinary proceedings against them.

We expect the concerned police officers shall be suspended during pendency of the disciplinary proceeding in order to enable its effective conclusion. Report in this regard shall be filed before the Court on the adjourned date.

Matter will appear in the Combined Monthly List of February, 2023.

Presence of the police officer conducting further investigation is noted and she is requested to be present on the adjourned date.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)