

AD- 30.05.2024
03 Ct. No.08
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C.R.M. (DB) 1723 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on **28/05/2024** in connection with **Sandeshkhali** P.S. Case No. **230 of 2024** dated **12/05/2024** under Sections **147/353/448/427/324/325/307/34/120B** of the India Penal Code.

And

In the matter of: Ajit Sardar & Ors.

....petitioners.

With

W.P.A. 14242 of 2024

Ganesh Karmakar & Ors.

-vs-

The State of West Bengal & Ors.

With

MAT 1132 of 2024

Utpal Maity & Ors.

-vs-

The State of West Bengal & Ors.

Mr. Rajdeep Majumder,
Mr. Pritam Roy,
Ms. Sayanti Poddar,
Mr. Soewel Bhattacharya,
Ms. Sagnika Banerjee,
Ms. Sarmistha Basak

...for the petitioners.

Mr. Kishore Datta,
Mr. Dipanjan Datta,
Mr. Kanak Kiran Bandyopadhyay,
Mr. Debangshu Dinda,
Mr. Sayan Datta

....for the State in WPA 14242 of 2024
& MAT 1132 of 2024.

Mr. Rudradipta Nandy,
Ms. Sanjana Saha

...for the State in CRM (DB) 1723 of 2024.

Leave prayed for is granted to Utpal Maity, Ajit Sardar, Gita Bar, Suprakash Mondal and Sudeb Dey to prefer this appeal being MAT 1132 of 2024.

Supplementary affidavit filed on behalf of the petitioners in connection with Sandeshkhali P.S. No.230/2024 dated 12/05/2024 in CRM (DB) 1723 of 2024 be kept with the record.

MAT 1132 of 2024 and CRM (DB) 1723 of 2024 are taken up for analogous hearing.

There is a dispute which has been raised on behalf of the State that the petitioner no.2, namely, Gita Bar, petitioner no.3 Suprakash Mondal, petitioner No.4 Utpal Maity and petitioner no.5 Sudeb Dey @ Manik are not in custody in connection with Sandeshkhali P.S. No.230/2024 dated 12/05/2024 as such no question arises in respect of their bail application to be considered.

According to the State the aforesaid petitioner nos.2 to 5 are in custody in another case.

We find that the petitioner no.1 is one Ajit Sardar who was arrested on 13th May, 2024 in connection with the instant case being Sandeshkhali P.S. No.230/2024 dated 12/05/2024.

Mr. Majumder, learned advocate appearing for the petitioners insisted that petitioner nos. 2 to 5 have been arrested and/or taken into custody pursuant to the production warrant which has been executed and which would be reflected according to him in the order dated 24th May, 2024.

Learned advocate further submitted that unnecessary confusion is being created by the State as there are political issues involved.

In view of the conflicting stand taken by the petitioners as well as State as to whether petitioner nos.2 to 5 were arrested or

not, initially we thought that it would be prudent to call for a report from the learned Additional Chief Judicial Magistrate, Basirhat. However, we find that there is no dispute regarding the factum of considering the bail application of Ajit Sardar whose arrest is reflected from the order sheets. The case diary was produced in connection with Sandeshkhali P.S. No.230/2024 dated 12/05/2024.

Attention of the Court was drawn by Mr. Nandy, learned advocate for the State in respect of two injured persons, namely, Dilip Mallick and Sreyam Gayen.

We have considered the injury report in the background of the facts and circumstances of the case wherein there are 33 FIR named accused persons. *Prima facie*, the doctors have been unable to describe regarding the nature of the injuries and more importance was granted to the narratives of the patients who went to the hospital.

The petitioner no.1, namely, Ajit Sardar is in custody for 17 days.

We have perused the statements of the witnesses and we do not find that there are such overt acts in the individual capacity of the petitioner no.1 to further detain him in custody in connection with the instant case. Accordingly, the prayer for bail of the petitioner no.1, namely, Ajit Sardar is allowed.

Let the petitioner no.1, namely, Ajit Sardar 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 Additional Chief Judicial Magistrate, Basirhat

subject to the condition that during bail petitioner no.1 shall meet the investigating officer once in a week till the submission of the charge-sheet. Petitioner no.1 shall not associate with any activities which may disturb the peace and tranquility of the area. In case of such events, the investigating officer would be at liberty to bring the same to the notice of the learned Additional Chief Judicial Magistrate, Basirhat and learned Additional Chief Judicial Magistrate would be at liberty to take steps for cancelling the bail without further reference to this Court.

The aforesaid conditions would come into force on and from **5th June, 2024**.

In view of the prayer advanced on behalf of the State, I direct that the petitioner no.1 shall stay outside the jurisdiction of the Sandeshkhali Police Station till 4th June, 2024. However, it would be the duty of the Inspector-in-Charge, Sandeshkhali Police Station to ensure that the petitioner no.1 would cast his vote on **1st June, 2024** (as such all assistance be rendered to the petitioner no.1, in case he informs the Police Station).

In the event the petitioner no.1 fails to comply with the conditions as enshrined hereinbefore, it is open to the trial court to cancel the bail without any further reference to this Court.

In view of the observations made above in respect of petitioner nos. 2 to 5, we direct learned Additional Chief Judicial Magistrate first to assess whether petitioner nos. 2 to 5 have been taken into custody in connection with Sandeshkhali P.S. No.230/2024 dated 12/05/2024. It would be the discretion of the learned Additional Chief Judicial Magistrate to check

whether the said petitioners are similarly situated in respect of the case or on the same footing as the accused Ajit Sardar and in case if learned Additional Chief Judicial Magistrate finds that they have been arrested in connection with the instant case and/or are in custody in connection with the instant case, learned Additional Chief Judicial Magistrate would extend the same benefit as the petitioner no.1 to the petitioner nos.2 to 5 in connection with the instant case without referring the petitioner nos.2 to 5 further to this Court.

The application being **CRM (DB) 1723 of 2024** is allowed partly.

In view of disposal of the application being **CRM (DB) 1723 of 2024**, the appeal being No. MAT 1132 of 2024 as well as connected application being CAN 1/2024, are, thus, disposed of.

Let WPA 14242 of 2024 be listed before the Regular Bench as directed in the order dated 21.05.2024.

Parties shall act on server copy of the order downloaded from the official website of this Court.

(Biswaroop Chowdhury, J.)

(Tirthankar Ghosh, J.)