

12.02.2021:

The bail petition no. 234/2021 filed u/s 439 CrPC on behalf of the accused Md. Ainol Hoque, Md. Sahijul Hoque and Md. Muktul Hussain in connection with PRC No. 140/2019 corresponding to Biswanath Ghat River PS Case no. 02/2014 u/s 25(1-A)/27 Arms Act is taken up as the case record and the case diary as called for are received.

Heard learned counsel for both the sides.

It has been submitted by the learned counsel for the petitioner that the accused are innocent and they had no prior knowledge of this case being pending against them. The learned counsel submitted that the Investigating Officer had submitted chargesheet against the accused persons without approaching them during investigation of the case. The learned counsel has drawn attention to the order dated 25.01.2021 passed by the Hon'ble Gauhati High Court in connection with the CrI. Pet. no. 624/2020 whereby the petitioners were directed to appear before the learned trial court, i.e., the learned court of SDJM(M), Biswanath Chariali with necessary bail application and it was directed that the learned trial court will decide the same afresh in accordance with law on or before the next date fixed, i.e., 14.02.2021 and till then the execution of NBWAs pending against the accused persons were stayed. Accordingly, when approached and surrendered, the learned trial court vide its order dated 01.02.2021 rejected their bail prayer after considering the materials on record and remanded the accused persons to custody. The learned counsel for the petitioner submitted that as the investigation of the case is already over, the accused persons may be released on bail.

Perused the case record and the case diary as were called for. Also perused the order dated 01.02.2021 passed by the learned trial Court.

The case record shows that chargesheet has been submitted against the accused persons u/s 25(1-A)/27 Arms Act and the attendance of all the accused persons is yet to be completed. It appears from the order dated 10.01.2020 that accused Muktal Hussain, Sahijul Hoque and Ainol Hoque remained absent showing cause. Again on 27.02.2020 they remained absent and prayed for adjournment but as these accused were shown as absconders in the chargesheet and were not on bail, their prayer was rejected and NBWAs were issued against them.

Perusal of the case diary shows that the Investigating Officer had searched for these accused persons on several occasions and visited their houses during the period of investigation of the case but they avoided him. As such, it is seen that the plea of the accused that they had no earlier knowledge of this case pending against them is not tenable. Moreover, the case diary reveals sufficient incriminating materials against them. Under such circumstances, considering the gravity of the offences charged against them and the materials collected, I find that this is not a stage when the accused persons can be relied upon and enlarged on bail. Hence the petition is rejected.

Return the case record and the case diary. The Misc. Case is disposed of accordingly.

Inform all concerned.

