

In Re: Nebu Lal Shaw

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Court : Kolkata

Decided On : Jul-24-1995

Reported in : (1995)2CALLT278(HC)

Judge : Ralbin Bhattacharyya and ;Satya Narayan Chakrabarty, JJ.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 120B, 302, 307 and 326; ;[Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 161, 164 and 173(8)

Appellant : In Re: Nebu Lal Shaw

Advocate for Pet/Ap. : Balai Chandra Roy and ;Dipankar Aditya, Advs.;Kazi Safulla, Adv.

Disposition : Petition dismissed

Judgement :

Ralbin Bhattacharyya, J.

1. This is an application, for bail under Section 439 of the Code of Criminal Procedure on behalf of the petitioner Nebu Lal Shaw in this case under Sections 302/307/326/120B of Indian Penal Code.

2. Petitioner's case is that he was arrested on 20.3.1995 and chargesheet was submitted by the Investigating Officer on 15.6.1995 against six accused persons. The petitioner's prayer for bail was rejected by this Court on 10.4.1995, 10.5.1995

and 22.6.1995 and he is in custody for more than 4 months being under medical treatment and he is aged about 75 years. On 10.7.1995 the Investigating Officer's prayer for further investigation under Section 173(8) of the Code of Criminal Procedure being allowed, statement of two witnesses were recorded under Section 161 of the Code of Criminal Procedure and those witnesses were also examined under Section 164 of the Code of Criminal Procedure. According to the petitioner, as the Investigating Officer will have to file a supplementary Charge-sheet and investigation not being completed within 90' days, the petitioner is entitled to be released on bail.

3. The Learned Counsel appearing for the petitioner referring to a ruling reported in 1984 Cr. LJ. page 1277 (P. V. Vijayaraghavan ann Ors. v. C.B.I. and Anr.) submitted that as there was further investigation in this case the same must be deemed to have been completed when the second chargesheet was filled, which being after 90 days, the petitioner is entitled to bail under Section 167(2) Proviso (a) (i), Cr. P.C. The case referred to, has no application to the facts of the present case in as much as in that case charge-sheet was submitted in instalments and the Investigator had not formed any definite opinion on the materials collected, that there was a case to place the accused before the Magistrate for trial with regard to the offence under Sections 201 of Indian Penal Code though he submitted previously charge-sheet under Section 120B/302 and 302/34 of Indian Penal Code, but in this case after investigation was completed, the charge-sheet was submitted by the Investigating Officer on 15.6.1995 against the accused persons after formation of definite opinion that on the material collected there was a case to place the accused before the Magistrate for trial. Therefore, investigation in this case being completed within the statutory period of 90 days and a further report being filed by the Investigating Officer after further material was available to him, it can not be said that he submitted charge-sheet in instalments and the accused does not become entitled to get bail as a matter of right.

4. We have gone through the Case Diary carefully. It appears to us from the materials disclosed from, the Case Diary that the accused petitioner does not deserve bail in such a case of heinous offence committed in broad day light within Court precincts and there is also chance of influencing the witnesses if the

petitioner is enlarged on bail. Prayer for bail is rejected accordingly. We, however, direct that the Court below, shall take all possible steps for expeditious disposal of the case preferably within a period of two months.

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