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Through:  
*[Signature]*  
Advocate

SOUTH 24 PARGANAS

IN THE HIGH COURT AT CALCUTTA

CRIMINAL MISCELLANEOUS JURISDICTION

APPELLATE SIDE

C.R.M. No. 4693 of 2012



IN THE MATTER OF

An application under Section 439 of  
the Code of Criminal Procedure

And

IN THE MATTER OF

Order dated March 7, 2012 passed  
by the Learned Chief Judicial  
Magistrate, 24 Parganas, South  
rejecting the prayer of bail of the  
petitioner and directing him to be  
remanded to judicial custody in  
connection with Lake Police Station  
Case No. 293 of 2011 dated 9

**PORT-FEE EXEMPTED**

32  
Commissioner of Accounts  
High Court, Appellate  
Calcutta

*[Signature]*  
3.5.12

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December 2011, under Sections  
304/308/285/36 of the Indian  
Penal Code read with Sections 11C,  
11L and 11J of the West Bengal Fire  
Services Act 1950.

-And-

IN THE MATTER OF:

Manish Goenka, Son of  
Radheshyam Goenka, residing at  
110A, Southern Avenue, Kolkata  
700029

Petitioner (In jail)

Versus-

The State

Opposite Party

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Serial No.	Date	Notes and Orders
02042012		<p style="text-align: center;"><u>C.R.M. No. 4693 of 2012</u> And <u>C.R.M No. 4694 of 2012</u></p> <p>In the matter of an application for bail under Section 439 of the Code of Criminal Procedure filed on 19<sup>th</sup> March, 2012 in connection with Lake P.S. Case No. 293 of 2011 dated 09.12.2011, under Sections 304/308/285/56 of the Indian Penal Code read with Sections 11C/11L and 11J of the West Bengal Fire Services Act 1950</p> <p style="text-align: center;">And</p> <p>In re                      Marish Goenka &amp; Anr                      Petitioners.</p> <p>Mr. Pradip Kr. Ghosh, Sr. Advocate, Mr. Pratap Chatterjee, Mr. Sudipto Moitra, Mr. Y. Z. Dastoor, Mr. Sandipan Ganguly, Mr. Pushan Kar, Mr. Sabyasachi Banerjee, Ms. Sreyashee Biswas, Mr. S. Majumdar                      for the Petitioners</p> <p>Mr. Debasish Roy, Ld. P.P.                      for the State.</p> <p>Both the aforesaid applications for bail since are arising out of the selfsame First Information Report, the same are taken up for hearing together and are disposed of by the order as follows. -</p> <p>2. Mr. Pradip Kumar Ghosh, the learned Senior Counsel appearing on behalf of the petitioners at the very outset of his argument contended that so far as the materials collected during investigation against both the petitioners are concerned, they are similarly situated with the co-accuseds, viz. Radheshyam Goenka and Prasant Goenka, who have been granted bail by this Court. He next contended that the Court below has granted bail to three other co-accuseds Dr. Mani Chettri, Dr. Pronob Dasgupta and Dr. Upadhyay and beyond all shadow of doubts, the petitioners are standing on much better footing than them and such order is still remain unchallenged from the side of the State. Accordingly, he prays that the petitioners be released on bail.</p>

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The Photostat copy of the certified copy of the aforesaid order granting bail to the co-accuseds Radheshyam Goenka and Prasant Goenka filed before this Court be taken on record.

On the other hand, the learned Public Prosecutor in his usual fairness submitted so far as the contention of Mr. Ghosh that the petitioners are standing on same footing with the co-accuseds, who have been already enlarged on bail there is nothing to dispute. However, he submitted considering the magnitude of the offence and number of human lives lost in the incident the petitioners are otherwise not entitled to bail.

3 Now, having regard to the order granting bail to the co-accuseds, viz. Radheshyam Goenka and Prasant Goenka, we find their prayer for bail was allowed essentially on the following reasons:

(a) The said petitioners were in custody for 111 days and the investigation was over and charge-sheet has been submitted.

(b) Since prosecution proposed to examine 455 witnesses and exhibit several documents, the trial is not likely to conclude shortly.

(c) So far as the said two co-accuseds are concerned, they are only the Directors of the AMRI Hospital and used to meet at Board Meetings once in three months, whereas two other Directors Dr. Mani Chettri, the Managing Director of the said hospital and Dr. Pronob Dasgupta, who were granted bail by the Court below apart from the fact they are the Directors, they are also in the Managing Committee, which according to the witnesses referred to in the said order used to manage and control the overall activities of the hospital and according to the decisions of the said committee used to be taken in its meeting held on every Saturday of each week the hospital was running.

(d) The Court below beside granting bail to the co-accuseds Dr. Mani Chettri and Dr. Pronob Dasgupta, has also ~~granted bail to Dr. Upadhyay who happened to be the Vice~~

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President (Project) and Chairman Fire Safety Committee and against such order also no challenge was thrown from the side of the State.

(c) So far as the prima facie evidentiary materials on the basis of which charge-sheet has been submitted in the case in hand the petitioners Radheshyam Goenka and Prasant Goenka are standing on much better footing than the co-accuseds Dr Mani Chettri, Dr Pronob Dasgupta and Dr. Upadhyay.

4. In order to reach a just decision in the matter, precisely on the question whether this petitioners are entitled to bail or not, we have very carefully gone through the charge-sheeted materials and find there is nothing which may justify us to treat the present petitioners differently from the co-accuseds, who has either been granted bail by this Court or by the Court below

Accordingly, we allow the petitioners' prayer for bail.

Let the petitioners' be released on bail to the satisfaction of the learned Chief Judicial Magistrate, Alipore on furnishing a P.R. Bond of Rs. 20,000/- each of two sureties of Rs 10,000/- each and on further condition that after release they shall not enter within the territorial limit of the police station within which the AMRI Hospital is situated and on further condition that they will not tamper with the evidence and must be present before the Trial Court on each day unless prevented due to justifiable reasons. We also direct that before release the petitioners' shall deposit their respective passports, if they possess to the concerned Court.

~~(Ashim Kumar Roy, J.)~~  
(Ashim Kumar Roy, J.)  
~~(Ashim Kumar Roy, J.)~~  
(Ashim Kumar Roy, J.)