

18.11.2020
S/L No.6
Court No.12
(gc)
(bail allowed)

CRM 7981 of 2020

(Via Video Conference)

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Kaliachak P.S. Case No. 248/2018** dated **19.04.2018** under Sections **302, 120B, 34** of the Indian Penal Code.

And

In the matter of: **Halim Nadab @ Ah. Halim.**

....Petitioner.

Mr. Ayan Bhattacharjee,
Mr. Sagar Saha

...for the Petitioner.

Mr. Swapan Banerjee,
Ms. Punima Ghosh

...for the State.

The petitioner undertakes to affirm and stamp the petition/application as per Rules within 48 hours of resumption of normal functioning of the Court. Subject to such undertaking, the application is taken up for hearing through video conference.

The learned Counsel for the petitioner submits that he has been falsely implicated in this case and he is in custody for 106 days. It is further submitted that since charge-sheet has already been filed, there is no necessity for any custodial interrogation.

The learned Counsel for the State, however, opposes the prayer for bail. It is submitted that the petitioner surrendered after two years four months and the deceased died due to a family conspiracy. It is submitted that the analysis of CDR and SDR of the mobile numbers of the accused persons as well as the victim disclosed the fact of conspiracy and clearly implicates the petitioner. The State has relied upon the statement of other co-accused persons showing involvement of the petitioner.

It transpires during hearing that the petitioner approached this Court for anticipatory bail which was earlier rejected by a Coordinate Bench on 20th December, 2018 after perusing the Case Diary which refers to the records of phone calls made by the principal accused both to the deceased and to the present petitioner. The State apprehends that the present petitioner may have been hired by the principal accused for the purpose of executing the murder of the victim. However, this order has not been mentioned in the petition. It further transpires during hearing that the principal accused, namely, Duli Bibi, was granted interim bail on 25th August, 2018 and the same was recalled and thereafter restored subsequently on 11th April, 2019 and she is on bail.

Having considered the materials on record and nature and extent of complicity of the petitioner in the commission of alleged offence and also having regard to the fact that he was not named in the FIR as his name transpired during interrogation by the police of the other co-accused persons, which is not admissible in evidence, and the fact that the charge-sheet has already been filed, we are inclined to grant bail to the petitioner subject to certain stringent conditions. We direct that the petitioner shall be released on bail upon furnishing a bond of Rs.20,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Malda and to comply with the provisions of Section 437(3) of the Code of Criminal Procedure. The petitioner shall appear before the learned trial court on every date till the conclusion of trial.

In the event the petitioner fails to comply with any of the conditions mentioned hereinbefore, it would be open to the trial court to cancel the bail without any further reference to this Court.

Since the charge-sheet has already been filed and it appears that the learned Sessions Judge, Malda has directed the trial court to expedite the process of commitment after exhausting all the legal provisions as per Code of Criminal Procedure, the same should be done immediately.

In addition to the aforesaid, the petitioner shall hand over the passport, if any, within two weeks from date to the Investigating Officer. In the event, the petitioner does not have passport, the petitioner shall personally appear before the Investigating Officer and furnish affidavit to that effect within the time framed mentioned hereinabove.

Accordingly, the application for bail being CRM 7981 of 2020 is allowed and disposed of.

All parties are to act on a website copy of this order on the usual undertaking.

(Saugata Bhattacharyya, J.)

(Soumen Sen, J.)