

18.11.2021

Court No.28
Item No.16
(REJECTED)

Saswata

CRM 7390 of 2021

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Narendrapur Police Station Case No. 1135 of 2019 dated 19.08.2019 under Sections 395/397/412 of the Indian Penal Code;

And

In the matter of : **Dipyu sharma @ Dipu Kumar**

...Petitioner

Ms. Sutapa Upadhyay

...For the Petitioner

Mr. Madhusudan Sur, APP

Mr. Dipankar Paramanick

... For the State

The petitioners have filed the instant application for bail under Section 439 of the Code of Criminal Procedure in connection with Narendrapur Police Station Case No. 1135 of 2019 dated under Sections 395/397/412 of the Indian Penal Code.

Learned advocate for the petitioner submits that he is languishing in jail for more than 800 days in connection with the aforementioned case.

It is further submitted that the petitioner is a pizza delivery boy and has no nexus or connection with the commission of an offence. Lastly, it is submitted that the co accused has already been enlarged on bail and the petitioner should also be enlarged on bail on the ground of parity.

Learned advocate for the State opposes the prayer for bail.

It is submitted that several persons including the petitioner impersonating them as police officer, committed dacoity and robbery and when the neighbours chased them, the petitioner was caught at the spot, whereas the other flew in the vehicle. Furthermore, two witnesses have been examined and the case has seen a substantial progress.

After hearing respective counsels and on perusal of the materials on record and the statement of the witnesses, we find the petitioner was caught at the spot when he tried to flee away. The other co accused who were not caught at the spot, even if granted bail subsequently, the petitioner cannot claim parity on such ground.

Furthermore, a pipe gun was recovered from his possession by the police authorities. The case has rolled in the stage of trial as 2 out of 20 charge sheeted witnesses have been examined. We, thus, do not find any ground for release of the petitioner on bail.

Accordingly, the prayer for bail of the petitioner is ***rejected***

However, we request the Learned Sessions Judge to fix a schedule for recording the evidence of the charge sheeted witnesses, if not already fixed and shall, thereafter continue with the case as per the provision contained under Section 309 of the Code of Criminal Procedure.

The application for bail being CRM 7390 of 2021 is accordingly ***dismissed.***

(Harish Tandon, J)

(Rabindranath Samanta,J.)