

CRM (DB) 176 of 2022
(via video conference)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure ;

And

In Re : Fakir Sk & Anr.

.....Petitioners

Mr. Khalid Hasan

.....for the Petitioners

Mr. Neguive Ahmed, Ld. APP

Ms. Trina Mitra

.....for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioners in connection with Nakashipara P.S. Case No. 65 of 2021 dated 13.02.2021 under Sections 341/324/325/326/307/34 of the Indian Penal Code.

Mr. Hasan, Learned Lawyer appearing for the petitioners submitted that the petitioner no. 1 is an aged person whose case may be considered leniently. In fact, there was free fight between the parties in which both the parties were injured and it is not the case that in the unilateral way, the present Petitioners assaulted the families of the victim. Since Charge Sheet has been filed, it is not necessary for keeping them in custody. He further submitted that one of the co-accused, namely, Nachirun Bibi has surrendered. Accordingly, he prays for bail on any condition.

Ms. Mitra, Learned Lawyer appearing for the State submitted that strong incriminating elements are there against the present Petitioners showing their direct complicity in the alleged offence. Two co-accused persons are still absconding for which matter

could not be committed. She further submitted that the application for bail by the present Petitioners were rejected earlier on 18th November, 2021 by a co-ordinate Bench of this Court. Since then there is no substantial change in the circumstances warranting reconsideration of bail application of the present Petitioners. Accordingly, she prays for bail application.

We have heard rival submissions. Perused the case diary.

It appears that the coordinate Bench of this Court earlier rejected the bail application of the present Petitioners. No substantial change in the circumstances took place since then. Statements of the witnesses, seizure list and the injury report indicate complicity of the present Petitioners in the alleged offence. Accordingly, considering the seriousness of offence, its gravity, no change in the circumstances since last refusal, we are not inclined to allow the bail application. As such, their prayer for bail is refused at this stage.

The application CRM (DB) 176 of 2022 is, accordingly, dismissed.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Sugato Majumdar, J.)

(Tapabrata Chakraborty, J.)