

07.03.2022
Court No.32
Item No. 13
Avijit Mitra

C.R.M. (DB) No.242 of 2022

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

And

In Re : Md. Juhi @ Kallu @ Afzal Javed @ Kaloo

Petitioner

Mr. Manjit Singh,
Mr. Goganjyot Singh,
Mr. Biswajit Mal

For the petitioner

Mr. Rudradipta Nandy,
Mr. Antarikhya Basu

For the State

Mr. Phiroze Edulji,
Mr. Imtiaz Ahmed,
Mr. Sandip Chakraborty

For the *de facto* complainant

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Shibpur Police Station Case No. 375 of 2021 dated 26.10.2021 under sections 326/307/34/120B of the Indian Penal Code.

Mr. Singh, learned advocate appearing for the petitioner submits that the petitioner has been falsely roped in on a purported plea that he was present at the place of occurrence. No specific overt act has been attributed to the petitioner pertaining to the injuries which were inflicted upon the victim. The allegation against the petitioner is that he stopped the vehicle in which the victim was sought to be shifted to the hospital, after he received the injuries. Upon completion of investigation chargesheet has

already been submitted and as such further detention of the petitioner, who is in custody for about 133 days, may not be necessary and he may be enlarged on bail on any stringent condition.

Mr. Nandy, learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to the statement of the witnesses, as recorded under Section 164 of the Code as well as the injury report. He further submits that the petitioner was present at the place of occurrence and was directly involved in the alleged offence and as such he is not entitled to the relief, as prayed for.

Mr. Edulji, learned advocate enters appearance on behalf of the *de facto* complainant and vehemently opposes the petitioner's prayer and submits that there are strong incriminating materials on record against him.

Heard the learned advocates appearing for the respective parties. We have been informed that four co-accused persons are still absconding.

Upon assessment of the materials on record, including the statements of the witnesses it *prima facie* appears that a specific role has been attributed to the petitioner. Considering the manner in which the offence has taken place, the nature of injuries and the extent of complicity of the petitioner in the alleged offence, we are not inclined to exercise any discretion in his favour more so when the possibility that he may wield influence over the

witnesses may not be ruled out, at this stage. In view thereof, his prayer for bail is refused, at this stage.

Accordingly, the application for bail, being CRM (DB) No.242 of 2022, is 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)