

07.03.2022

Court No.32
rpan / **16**

CRM (DB) 248 of 2022

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

and

In Re.: **Ashif Ali @ Sharukh @ Asif Ali @ Md. Asif**

- Petitioner.

Mr. Suman De

... for the Petitioner.

Mr. Neguive Ahmed,

Ms. Amita Gaur

... for the State.

The present application for bail under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Shibpur Police Station Case No.163 of 2020 dated 05.06.2020 under Section 302 of the Indian Penal Code read with Sections 25/27 of the Arms Act [Chargesheet no.210/2020 submitted under Section 302 of the Indian Penal Code read with Sections 25(1)(B)(a)/27 of the Arms Act].

Mr. De, learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated due to previous enmity. Drawing our attention to the statement of one, Md. Naushad, as recorded under Section 164 of the Code, he submits that death was not caused due to the alleged act of the petitioner. Upon completion of investigation charge sheet has already been submitted and as such, further detention of the petitioner, who has already suffered incarceration for about 640 days, may not be necessary and he may be enlarged on bail on any stringent condition.

Ms. Gaur, learned advocate appearing for the State, however, opposes the petitioner's prayer and draws our attention to the

statements of the witnesses, as recorded under Sections 161 and 164 of the Code. She submits that the offending weapon was also recovered from the house of the petitioner. Answering our query, she submits that charges have already been framed and date has been fixed for evidence and that there are nineteen witnesses in total.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

Considering the manner in which the offence has taken place, the nature of accusations, the period of detention already suffered by the petitioner and the possible extent of his complicity in the alleged offence, we are of the opinion that his further detention is not necessary. However, his movement needs to be restricted.

Accordingly, we allow this application and direct that the petitioner, namely, **Ashif Ali @ Sharukh @ Asif Ali @ Md. Asif** shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be a local, to the satisfaction of the learned Chief Judicial Magistrate, Howrah with a further condition that he shall meet with the Inspector-in-Charge, Howrah Police Station once a week until further orders.

It is further directed that the petitioner shall attend the learned court below on all the dates specified for hearing and shall not tamper with the evidence and/or intimidate the witnesses in any manner whatsoever.

In the event the petitioner fails to comply with the aforesaid directions, without any justifiable cause, the learned court below

shall be at liberty to cancel his bail, in accordance with law, without further reference to this Court.

With the aforesaid observations, the application for bail, being CRM (DB) 248 of 2022 is disposed of.

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.)