

29.03.2022

Sl. 62
Court No.29
SD
(Rejected)

C.R.M. (DB) 389 of 2022

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 13.01.2022 in connection with Panskura P.S. Case No. 236 of 2021 dated 31.5.2021 under Sections 147/149/307/323/379/354B/325/302/506/34 of the Indian Penal Code read with Section 51B of the National Disaster Management Act, 2005.

And

In the matter of: Sk. Golam Mustafa & Anr.

....petitioners.

Mr. Suman De

...for the petitioners.

Mr. N. Ahmed

Ms. Trina Mitra

...for the State.

Mr. Manjit Singh

Mr. Kunal Ganguly

Mr. Ganganjyot Singh

... for the De facto Complainant.

Petitioners seek bail.

Learned advocate for the petitioners submits that the petitioners are in custody for 296 days. The police filed charge sheet and, therefore, further detention of the petitioners is not required. He submits that there was a free fight. There is a complaint lodged against the de facto complainant in the present case. He refers to Section 103 of the Indian Penal Code and submits that the petitioners exercised the right of private defence of property. He submits that the house of the petitioners was ransacked and burnt down.

Learned Additional Public Prosecutor refers to the statement of the injured eyewitness recorded under Section 164 of the Code of Criminal Procedure. He submits that such statement squarely implicates both the petitioners in the incident of murder.

The de facto complainant is represented.

Considering the gravity of the offence and involvement of the petitioners therein as transpiring from the materials available in the case diary including the statement of the injured victim recorded under Section 164 of the Code of Criminal Procedure, we are unable to grant bail to the petitioners. The defence sought to be set up under Section 103 of the Indian Penal Code is to be evaluated at the time of trial.

Accordingly, the prayer for bail of the petitioners is rejected.

CRM (DB) 389 of 2022 is dismissed.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)