

07.06.2022.
14.
Ct.No.28.
as
(Partly
Allowed)

C.R.M. (DB) 1339 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Domkal P. S. Case No.215 of 2019 dated 19.03.2019 under Sections 341/324/326/307/302/34 of the Indian Penal Code.

In the matter of : Siraj Mondal & Ors.

.... Petitioners.

Mr. Sekhar Kr. Basu, Ld. Sr. Adv.,
Mr. Diptangshu Basu.

...for the Petitioners.

Mr. Madhusudan Sur, ld. A.P.P.,
Mr. Manoranjan Mahata.

...for the State.

Heard the learned Counsels appearing on behalf of the parties.

Petitioners are in custody for about 613, 984 and 893 days respectively. It is further submitted they did not share common intention to murder the deceased. Co-accuseds have been enlarged on bail.

Learned Advocate appearing for the State opposes the prayer for bail and submits that petitioners had come in a body with arms and indiscriminately assaulted various persons resulting in death of one Altab Sk.

We have considered the materials on record including the statement of one Sabir Ahmed, an injured witness. Petitioner no.2 is alleged to be one of the assailants who had assaulted the victim who ultimately succumbed to his injuries. Although

petitioner Nos.1 and 3 are alleged to have assaulted Sabir Ahamed in the course of the incident, we note co-accuseds similarly circumstanced with petitioner Nos.1 and 3 have been enlarged on bail.

Under such circumstances, we are of the opinion petitioner no.2 who had actively participated in the assault on the deceased cannot be said to stand on the same footing with co-accuseds who are on bail but on principles of parity petitioner Nos.1 and 3 may be enlarged on bail.

Hence, the prayer for bail of the petitioner no.2 is rejected. Prayer for bail of petitioner Nos.1 & 3 is allowed.

Accordingly, the petitioner Nos.1 and 3 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 local, to the satisfaction of the learned Chief Judicial Magistrate, Murshidabad subject to condition that the petitioner Nos.1 and 3 shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event the petitioner Nos.1 and 3 fail to appear before the Trial Court without any justifiable cause, the trial Court shall be at liberty to cancel their bail in accordance with law without further reference to this Court.

This application for bail is, thus, disposed of.

(Ananya Bandyopadhyay,J.)

(Joymalya Bagchi, J.)

