

21.06.2022

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rejected

C.R.M. (DB) 1919 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Mongalkote Police Station Case No. 34 of 2021 dated 27.01.2021 under Sections 341/326/307/302/120B/212/34 of the Indian Penal Code.

And

In Re : Ashis Ghosh & Ors. petitioners

Mr. Milon Mukherjee, Sr. Adv.

Mr. Rahul Ganguly

... for the petitioners

Mr. Madhusudan Sur, learned APP

Mr. Dipankar Pramanik

... for the State

Mr. Indrajeet Dasgupta

Ms. Puspita Bhowmick

Ms. Rima Biswas

... for the de facto complainant

Learned senior Counsel appearing for the petitioners submits that they have been falsely implicated in the instant case due to political rivalry. Ibrahim Khan had fled from the spot and could not have witnessed the assault. It is also submitted that the petitioner nos. 7 and 8 are not named in the F.I.R.

Learned Counsel appearing for the State opposes the prayer for bail. He submits Ibrahim Khan was present at the spot and was assaulted. He suffered injuries in the course of

same transaction and had named the petitioners as the persons who had assaulted the deceased.

Learned Counsel appearing for the de facto complainant also opposes the prayer for bail.

We have considered the materials on record. Ibrahim Khan suffered injuries in the course of same transaction wherein the victim was also assaulted and died. He had seen the incident. He had named the petitioners in his statement under Section 164 of the Code of Criminal Procedure. It is strenuously argued that the de facto complainant who had received information from the said Ibrahim Khan did not name petitioner nos. 7 and 8 in the F.I.R. This gives rise to a reasonable inference of embellishment and afterthought.

We have considered the materials on record. A number of persons variously armed had attacked the deceased and Ibrahim Khan who also suffered injuries. His statement under Section 164 of the Code of Criminal Procedure clearly implicates all the petitioners. De facto complainant is not an eye-witness and, therefore, omission of names of petitioner nos. 7 and 8 in the F.I.R. requires to be assessed in the light of other materials on record particularly statement of the eye-witness recorded under Section 164 of the Code of Criminal Procedure, as aforesaid.

In view of prima facie involvement of the petitioners in the alleged crime resulting in injury of one person and death of

another, we are not inclined to grant bail to the petitioners at this stage.

The application for bail is, thus, rejected.

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)