

23.06.2022
tkm/ct 28
sl no. 45

C.R.M. (DB) 1983 of 2022

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Ratua P.S case no. 354 of 2020 dated 6.8.2020 under section 448/326/307/302/506/34 IPC
And

Allowed

In Re : Sk. Bapi @ Sekh Osman Gani Ahmed & Anr.
..... petitioners

Mr. Rajdeep Mazumder
Mr. P Roy
Mr. R Agarwal

..... for the petitioners

Mr. N Ahmed
Ms. Ayantika Roy

..... for the State

Petitioners are in custody for about four months. It is contended co-accuseds are on bail. Petitioner no. 1 was not named in the FIR. There is enmity between the parties. Case and counter case was lodged over the incident.

Learned lawyer for the State opposes the prayer for bail and submits petitioners are named by the injured eye-witness. Case at the behest of the petitioners were belatedly lodged over a different incident.

We have considered materials on record. Petitioner no 2 is named in the FIR as well as in the statement of the injured eye-witness recorded under section 164 Cr.P.C. Petitioner no. 2 had absconded. Co-accuseds were released on statutory bail but petitioner no. 2 had absconded and was subsequently arrested.

In view of the aforesaid incriminating materials on record and prima facie involvement of petitioner no. 2 therein, we are not inclined to grant bail to him.

Petitioner no. 1 is not named in the FIR which was lodged by a family member of the deceased. There is enmity between the parties. Hence, possibility of his false implication in the statement of the witness recorded under section 164 Cr.P.C cannot be wholly ruled out.

In view of the extent of complicity of petitioner no. 1 in the alleged crime and the period of detention suffered by him, we are inclined to grant bail to the petitioner no. 1.

Accordingly, the petitioner no. 1 viz Sk Bapi @ Sekh Osman Gani Ahmed 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 ACJM, Chanchal, Malda on condition that the petitioner no. 1 shall appear before the trial court on every date of hearing and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

The application being CRM (DB) 1983 of 2022 is disposed of.

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)