

11.06.2022
cm/ct 28
sl no. 20

C.R.M.(DB) No. 2103 of 2022

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with **Kandi P.S Case No. 129 of 2022** dated **09.03.2022** under Sections **302/120B/34** of the Indian Penal Code.

And

Allowed

In Re : Fulchand Sk & Ors.

..... petitioners

Mr. Arnab Chatterjee
Mr. Jishan Iqubal Hossain
Ms. Sweta Bhatta
Ms. Dhanasree Biswas

..... for the petitioners

Mr. Swapan Banerjee
Ms. Purnima Ghosh

..... for the State

Petitioners are in custody for 70 days. It is submitted that they have been falsely implicated in the instant case. They are not named in the First Information Report and investigation is complete.

Learned lawyer for the State opposes the prayer for bail. He submits statement of witnesses recorded under Section 161 Cr.P.C. implicate the petitioners.

We have considered the materials on record. There is variation with regard to genesis of the incident and the number of persons who had participated in the assault. While Sherful Sk. an eye witness under Section 164 Cr. P.C. states two persons namely Golapful Sk & Hapijul Sk, assaulted his father-in-law, statement of other witnesses under Section 161 Cr.P.C. speak of assault by a large number of persons including the petitioners.

Keeping in mind the aforesaid dichotomy and as petitioners are not named either in the First Information Report or statement of Sherful Sk under Section 164 Cr.P.C., we are inclined to grant bail to them.

Accordingly, the petitioners be released on bail upon furnishing a bond of Rs.10,000/- each with two sureties of like amount, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Kandi at Murshidabad on condition that the petitioners 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 they fail to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel their bail automatically without reference to this court.

Investigating Officer is present. Report is placed on record. Explaining the reasons for discharge of three co-accused persons. His presence is noted and dispensed with.

The application being CRM(DB) No.2103 of 2022 is disposed of.

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)