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Partly Allowed

CRM (DB) NO. 2128 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Tamluk Police Station Case No. 321 of 2021 dated 18.04.2021 under Sections 302/120B/34 of the Indian Penal Code.

In Re : Arbaz Khan & Anr. petitioners

Mr. Amitabha Karmakar
Mr. Arup Kumar Bhowmick
.....for the petitioners

Mr. Madhusudan Sur, learned A.P.P.
Mr. Manoranjan Mahata
Mr. Sayan Dutta
....for the State

It is submitted by the learned Counsel appearing for the petitioners that petitioner no. 1 is in custody for 206 days and petitioner no. 2 is in custody for 225 days. It is also submitted that there is no direct evidence connecting them to the murder.

Learned Counsel appearing for the State opposes the prayer for bail. He submits that petitioner no. 1 was seen talking with the driver of the truck carrying oil prior to the latter's murder. Witnesses stated petitioner no. 2 made phone calls for sale of oil from the said tanker after the incident.

We have considered the materials on record. Statement of witness read with test identification parade show that petitioner no. 1 was seen talking with the driver at the spot where oil was loaded in the vehicle. However, there is no

material to show that he had accompanied the driver in the vehicle.

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

Accordingly we direct that the petitioner no. 1 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, Tamruk, Purba Medinipur, subject to the condition that the petitioner shall appear before the learned trial court on every date of hearing until further orders and shall not intimidate witnesses and/or tamper with evidence in any manner whatsoever.

In the event, the petitioner fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel the bail of the petitioner in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed in so far as petitioner no. 1 is concerned.

However, there are ample materials to show that the petitioner no. 2 had control and dominion over the vehicle in question after the murder. Statements of witnesses show that he negotiated with persons to sell the oil carried in the vehicle.

In view of the aforesaid incriminating materials disclosing prima facie involvement of the petitioner in the alleged crime,

we are of the opinion that this is not a fit case in granting anticipatory bail to the petitioner no. 2.

Accordingly, application for bail in so far as petitioner no. 2 concerned is, thus, rejected.

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)