

19.07.2022
cm/ct 28

C.R.M. (DB) 2364 of 2022

sl. no. 22

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with **Sabang P.S Case No. 167 of 2021** dated **05.05.2022** under Sections **302/34** of the Indian Penal Code which was subsequently re-registered as CBI/SCB/Kolkata case No. RC0562021S0046 dated 09.11.2021 under Sections 147/148/149/302/34 of the Indian Penal Code.

Rejected

And

In Re : Alaka Mahesh @ Alaka Mahes & Anr.

..... petitioners

Mr. Ranadeb Sengupta
Mr. Sachit Talukdar

..... for the petitioners

Mr. Dhiraj Trivedi, Ld. ASG
Mr. Shailendra Kr. Mishra
Mr. Bikash Kumar Singh

..... for the CBI

Petitioners are in custody for over 162 days. It is contended that there was a family dispute between the parties. They have been falsely implicated in the instant case.

Learned Assistant Solicitor General opposes the prayer for bail. He submits petitioners had exhorted the co-accused to kill the victim. Upon their exhortation, co-accused assaulted the victim who was already lying injured on the ground resulting in his death. Prayer for bail of the petitioner was rejected in March, 2022.

We have considered the materials on record including statements of witnesses particularly Shyamali Barman and Bishnupada Barman. These witnesses state they had arrived at the place of occurrence and found the victim lying on the ground with bleeding injuries. At that stage petitioners exhorted co-accused Biddyut Mahesh to kill the victim. Thereupon, Biddyut again

assaulted the victim resulting in his death. Prima facie role of the petitioners in the incident is established. Their prayer for bail was rejected earlier. Under such circumstances and in view of the gravity of the offence, we are not inclined to grant bail to the petitioners.

Accordingly, the prayer for bail of the petitioners is rejected at this stage.

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)