

22.07.2022
Sl. No.30
akd
[ALLOWED]

C. R. M. (DB) 2414 of 2022

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 18.07.2022 in connection with Tehatta Police Station Case No. 532 of 2019 dated 15.11.2019 under Sections 326/307/302 of the Indian Penal Code.

And

In Re: ***Mahitosh Ghosh @ Mohitosh Ghosh***

... .. Petitioner

Ms. Anasuya Sinha
Mr. Asraf Mandal

... .. for the petitioner

Mr. Madhusudan Sur .. Id. Addl. Public Prosecutor
Mr. Dipankar Pramanick

... .. for the State

Petitioner renews his prayer for bail.

It is submitted on behalf of the petitioner date has been fixed for recording evidence in November, 2022 and there is little possibility of the trial concluding in near future. It is further submitted petitioner is not the principal accused and he is not named in the FIR. Statement recorded under Section 164 of the Code of Criminal Procedure also does not attribute any specific overt act on his part.

Learned Additional Public Prosecutor opposes the prayer for bail and submits petitioner was present at the spot but he did not intervene and save the victim.

We have considered the materials on record. Petitioner is not named in the FIR. Statement of eyewitness recorded under Section 164 of the Code of Criminal Procedure though speaking of the presence of the petitioner at the place of occurrence does not attribute any specific overt act on his part. Petitioner was unarmed. Whether he did not intervene out of fear or otherwise requires to be assessed during trial. Keeping in mind the extent of complicity of the petitioner in the alleged

crime and as date for recording evidence is fixed in November, 2022 and there is little possibility of the trial concluding in near future, we are inclined to extend the privilege of bail to the petitioner.

Therefore, the accused/petitioner, namely ***Mahitosh Ghosh @ Mohitosh Ghosh***, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Tehatta, Nadia subject to condition that the said petitioner shall appear before the trial court on every date of hearing until further orders 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 for bail, thus, stands **allowed**.

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)