

10.01.2022
Court No.32
Item No. 43
Avijit Mitra

C.R.M. 8321 of 2021 (Through Video Conferencing)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure;

And

In Re : Sabir Gazi @ Khokan Gazi

.... petitioner

Mr. Kallol Kumar Basu,
Md. Jannat Ul Firdous

...for the petitioner

Ms. Zareen N. Khan,
Mr. Ashok Das

...for the State

Mr. Siddhartha Sarkar

...for the *de facto* complainant

Languishing in custody for about 180 days, the present application under Section 439 of the Code of Criminal Procedure is filed by the petitioner praying for bail in connection with Basirhat Police Station Case No.479 of 2021 dated 13.07.2021 under Sections 341/326/307/506/34 of the Indian Penal Code.

Mr. Basu, learned lawyer for the petitioner submitted, that the present petitioner is not the principal accused. The allegation against the present petitioner is only instigation. The petitioner is in custody for about 180 days. Chargesheet has been filed. Further custodial detention is not necessary. Commitment of the case has not yet been made. There is no immediate prospect of trial. Accordingly, he prays for bail.

He further submitted that the complaint was a belated one shedding doubt on its veracity.

Mr. Sarkar, learned lawyer representing the *de facto* complainant submitted that the victim was in hospital for long and sustained very severe injury by the principal accused as well as the present petitioner. He strongly opposes the bail application because of severity of offence.

Per contra, Mr. Das, learned lawyer representing the State invited our attention to the statement of the witnesses particularly, eye-witness and injury report and submitted that serious injuries were inflicted by the principal accused, Aditya Das at the instigation of the present petitioner. In fact, both were present on the spot and instrumental in committing the severe offence. Although chargesheet is filed, considering the gravity of the offence he strongly opposes the bail.

We have heard the rival submissions and perused the case diary. It appears that the victim was stabbed with a screw-driver by the principal accused at the instigation of the present petitioner, as a result of which intestines of the victim came out and the victim was immediately hospitalized and was treated for almost a month or more. Eyewitness clearly indicates the role of the petitioner for commission of the offence and has a direct involvement. Considering the seriousness of the offence and the complicity of the petitioner, we are not inclined to allow the bail and the same stands rejected.

The application for bail, being CRM No.8321 of 2021, is dismissed.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Sugato Majumdar, J)

(Tapabrata Chakraborty, J)