

28.09.2022
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Partly Allowed

CRM (DB) No. 2937 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Dhubulia Police Station Case No. 30 of 2022 dated 14.01.2022 under Sections 302/34 of the Indian Penal Code.

And

In Re : Tiya Sk. & Ors.. petitioners

Mr. Sekhar Kumar Basu, Sr. Adv.

Mr. Antaikhya Basu

Ms. Madhumita Basak

.....for the petitioners

Mr. Madhusudan Sur, learned APP

Mr. Manaranjan Mahata

.....for the State

It is submitted by the learned Counsel appearing for the petitioners that they are in custody for over seven months. They renew their prayer for bail. It is also submitted that incident occurred in the course of a sudden quarrel. Petitioner no. 2 is suffering from malignancy.

In view of the aforesaid submission on behalf of the petitioner no. 2, report was called for with regard to his state of health. Report is placed on record. It appears from the report that the petitioner no. 2 is suffering from features which are suspicious of malignancy.

Learned Counsel appearing for the State opposes the prayer for bail.

We have considered the materials on record. Statements of witnesses show petitioners had assaulted the deceased.

Postmortem report also indicates a number of injuries on the chest and head of the deceased. Hence, we are not inclined to grant bail to the petitioner nos. 1 and 3 on merits.

The application for bail in so far as petitioner nos. 1 and 3 is, thus, rejected.

However, with regard to petitioner no. 2 who appears to be suffering from malignancy, we are of the opinion he may be granted bail on the ground of ill health.

Accordingly, we direct that the petitioner no. 2 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, Nadia, subject to the condition that the petitioner no. 2 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 no. 2 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 no. 2 in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed in so far as petitioner no. 2 is concerned.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)

