

12.09.2022.
20.
Ct.No.28.
as
(Allowed)

C.R.M. (DB) 3078 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kultu P. S. Case No.147 of 2022 dated 07.03.2022 under Sections 302/201/120B of the Indian Penal Code read with Sections 27/35 of the Arms Act.

In the matter of : Avinash Kumar @ Abinash Singh @ Saha.
.... Petitioner.

Mr. Anupam Das,
Mr. Soupal Chatterjee,
Mr. Kundan Kumar Singh,
Ms. Sucheta Banerjee.

...for the Petitioner.

Mr. Rudradipta Nandy, ld. A.P.P.,
Ms. Manisha Sharma.

...for the State.

Petitioner is in custody for 99 days. It is submitted he did not share the common intention to murder. Incident occurred on the spur of the moment without pre-meditation and co-accused Chotu fired at the driver. Investigation is complete. He prays for bail.

Learned Advocate for the State opposes the prayer for bail. He submits petitioner was present at the place of occurrence. From his possession mobile phone of the driver of the vehicle was recovered.

We have considered the materials collected during investigation including the statement of one Hemanta Sarkar recorded under Section 164 of the Code of Criminal Procedure. From his statement it appears over a dispute regarding fare of

the vehicle, co-accused Chotu had suddenly fired at the driver. In the aforesaid factual matrix whether the petitioner shared the common intention with co-accused Chotu may be assessed during trial. Petitioner does not have any criminal antecedents and investigation is complete.

Under such circumstances, we are inclined to grant bail to the petitioner.

Accordingly, the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- each with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Paschim Burdwan subject to condition that he 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 the petitioner fails to appear before the Trial Court without any justifiable cause, the trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

This application for bail is, thus, disposed of.

(Ajay Kumar Gupta,J.)

(Joymalya Bagchi, J.)