

14.09.2022
Sl. No.13
akd
[Rejected]

C. R. M. (DB) 3099 of 2022

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 07.09.2022 in connection with Usthi Police Station Case No. 434 of 2018 dated 17.10.2018 under Sections 302/34 of the Indian Penal Code. (G.R. Case No.2988 of 2018)

And

In Re: ***Atiar Rahaman Laskar & Anr.***

... .. Petitioners

Mr. Deepak Kr. Sen Gupta .. Sr. Advocate
Mr. Biswajit Hazra
Mr. Mrityunjoy Chatterjee
Mr. Archisman Sain
Mr. Arif Mohammad Khan

... .. for the petitioner

Mr. Saswata Gopal Mukherjee .. Id. Public Prosecutor
Mr. Parthapratim Das
Ms. Eshita Dutta

... .. for the State

It is submitted on behalf of the petitioners that they were enlarged on bail earlier. Subsequently, their bail order was cancelled by this court. Pursuant to the direction of this court, petitioners surrendered before the court below and were taken into custody. They are in custody for about 110 days. Charge has not been framed and there is little possibility of the trial commencing let alone concluding in near future.

Learned Public Prosecutor opposes the prayer for bail and submits earlier bail order of the petitioners was cancelled both on the ground of perversity as well as misuse of liberty by the accuseds. There are ample materials connecting the petitioners with the murder of the victim.

We have considered the materials on record. Statements of witnesses recorded under Sections 161/164 of the Code of Criminal Procedure show the victim had made oral dying declaration implicating

the petitioners in the crime. They were released on bail without considering this vital incriminating material. That apart, there were allegations of misuse of liberty which had compelled the de-facto complainant to approach this court under Article 226 of the Constitution of India. In view of the aforesaid incriminating materials, gravity of the offence and the conduct of the petitioners, we are of the opinion this is not a fit case to grant bail to the petitioners at this stage.

The application for bail is thus **rejected**.

Court below is directed to forthwith commit the case to the Court of Sessions, if not already done, and upon commitment the Sessions Court shall consider the issue of framing of charge at the earliest.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)