

29.09.2022

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rejected

C.R.M.(DB) No. 3186 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with CBI, Special Crime Branch, Kolkata Case No. RC056-2021-S-0008 of 2021 dated 25.08.2021 under Sections 302/395/341/323/506/ 427/ 143/147/148/149/449/452/201/395/34 of the Indian Penal Code.

And

In Re : Rahul Dey & Anr. petitioners

Mr. Debasish Roy
Mr. A. Ghosh
Mr. P. Roy

....for the petitioners

Mr. Dhiraj Trivedi, ld. Dy. S. G.
Mr. S. Goswami
Mr. R. Banerjee
Mr. S. K. Mishra

..... for the CBI

Learned Counsel appearing for the petitioners submits they are in custody for seven months. It is also submitted that they are not the principal assailants. They were not named by the first informant i.e. mother of the victim. Proceedings have been stayed at the behest of the defacto complainant. They accordingly pray for bail.

Mr. Trivedi, learned Deputy Solicitor General opposes prayer for bail. He submits injured eye-witness has implicated the petitioner in the murder. There is possibility of winning over the witnesses.

Learned Counsel appearing for the defacto complainant also opposes prayer for bail and submits petitioner is influential person and if he is released on bail witness would not be able to depose without fear.

We have considered the materials on record. On merits, we note the injured eye-witness has implicated the petitioner as a member of the unlawful assembly who assaulted the victim resulting in his death. There is serious apprehension that release of the petitioner may affect the moral of the witnesses.

In view of the incriminating materials on record and to ensure a fair and impartial trial, we are not inclined to grant bail to the petitioner at this stage.

The application for bail is, thus, rejected.

We are informed that the proceedings have been stayed at the behest of the defacto complainant. We give liberty to the petitioners as well as the prosecuting agency to seek appropriate directions in the said proceeding in accordance with law, if so advised.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)