

29.09.2022

dd/ct 28
sl no. **105**

C.R.M. (DB) 3422 of 2022

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with **Sessions Case no. 81/2022** arising out of **Kulpi** P.S case no. **317** of **2020** dated **29.11.2020** under sections **326/307** of the IPC adding Section **302 of IPC (GR no. 2949 of 2020)** Charge sheet submitted vide no. 258 of 2021 dated 22.10.2021 under sections 302/120B/34 of the Indian Penal Code.

and

Allowed

In Re : **Mostafizur Molla @ Raju** petitioner

Mr. Kallol Mondal,
Mr. M. Alam Sk.
Mr. Kishan Ray,

..... for the petitioner

Mr. Zareen N. Khan,
Mr. Arup Sarkar,

..... for the State

Petitioner is in custody for 419 days. He submits that the victim had died after three months.

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

We have considered the materials on record. Though statements of witnesses show petitioner assaulted the victim, it is relevant to note that the victim survived for more than three months. Whether the case would fall within the ambit of section 302 of the IPC requires to be assessed in the light of the aforesaid circumstance during trial.

In view of the aforesaid facts and the period of detention suffered by the petitioner, we are inclined to grant bail to the petitioner,

Accordingly, the petitioner 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 Additional Chief Judicial Magistrate, Diamond Harbour on condition that the petitioner shall appear before the trial court on

every date of hearing and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

The application being **C.R.M. (DB) 3422 of 2022** is disposed of.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)