

13.10.2022.
27.
Ct.No.28
As/dg
(Rejected)

C.R.M. (DB) 3528 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kotwali P.S. Case No.562 of 2021 dated 14.06.2021 under Sections 143/144/147/148/149/302/427/448/449/34 of the Indian Penal Code and Sections 25/27 of the Arms Act.

In the matter of : Partha Halder & Ors.

....Petitioners.

Mr. Sekhar Kr. Basu, ld. Sr. Adv.,
Mr. Kishore Dutta, ld. Sr. Adv.,
Mr. Antarikhya Basu,
Mr. Sayan Mukherjee,
Ms. Madhumita Basak

...for the Petitioners

Mr. Kallol Mondal,
Mr. Sagar Saha.

...for the CBI.

Petitioners are in custody for 438 days. It is submitted they are not the principal assailants. The ballistic report does not support the fire arm recovered from co-accuseds. It is further contended petitioner Nos.1 and 3 are not named in the first information report. They pray for bail.

Learned Advocate for the CBI submits matter has been committed to Court of Sessions. Date has been fixed for consideration of charge on 31st October, 2022. Statements of witnesses implicate the petitioners.

We have considered the materials on record. Statements of witnesses recorded under Sections 161/164 of the Code of Criminal Procedure, prima facie disclose that the accused

persons including the petitioners being variously armed came to the residence of the victim and dragged him away. He was assaulted and thereafter shot. Post mortem report shows bruises in addition to the gun shot injury which caused the death. The aforesaid circumstances, prima facie, support the prosecution case of common intention of the accused persons to kill the victim. Statements of more than one witnesses have implicated the petitioners as members of unlawful assembly who dragged and assaulted the victim who was subsequently murdered. Impact of the ballistic report is to be seen in the light of the consistent ocular evidence during trial.

In view of the aforesaid incriminating materials and as date has been fixed for consideration of charge on 31st October, 2022, we are not inclined to grant bail to the petitioners.

Accordingly, the prayer for bail of the petitioners is rejected.

Trial court is requested to consider the issue of framing of charge on the next date fixed before it and in the event charge is framed to take the matter to its logical conclusion without granting any unnecessary adjournment to either of the parties.

(Supratim Bhattacharya,J.)

(Joymalya Bagchi, J.)