

13.12.2022  
Sl. No.21  
**akd**  
[Rejected]

**C. R. M. (DB) 3557 of 2022**

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 11.10.2022 in connection with R.C. No.0562021S0024 dated 28.08.2021 arising out of Nalhati Police Station Case No.146 of 2021 dated 14.05.2021 under Sections 302/201/34 of the Indian Penal Code and subsequently charge sheet submitted under Sections 302/364/34 of the Indian Penal Code and further supplementary charge sheet filed under Sections 149/302/364/34 of the Indian Penal Code.

And

In Re: ***Chand Mohammad Ali @ Chano & Anr.***

... .. Petitioners

Md. Sabir Ahmed  
Mr. Biswajit Sarkar

... .. for the petitioners

Mr. Kallol Mondal

... .. for the CBI

Petitioner no.1 is in custody for about 204 days and petitioner no.2 is in custody for about 244 days. Statements of eyewitnesses viz. Md. Musarof Mondal and Mallem Sekh were belatedly recorded. It is further submitted that statements of other witnesses do not show they were present with the victim on the date of occurrence. They pray for bail.

Learned advocate appearing for the Central Bureau of Investigation (CBI) opposes the prayer for bail and submits petitioners shared common intention with co-accuseds and had participated in the assault. As a result, the victim died.

We have considered the materials on record. Statement of one Bappi Thanadar shows prior to the incident the petitioners and co-accuseds were seen together. Eyewitnesses viz. Md. Musarof Mondal and Mallem Sekh saw Mainuddin Sk. @ Mainu and Md. Imran taking the victim on a motorcycle. They also noted petitioner no.2 and others

following the victim on a white coloured scooty. The witnesses followed them and saw the assault. Petitioner no.1 subsequently came to the spot and also participated in the assault. Investigation of the crime was handed over to CBI in August, 2021 and statements of eyewitnesses were recorded in October, 2021. They stated they were afraid of the accuseds and had kept mum earlier.

In view of the aforesaid materials on record and the gravity of the offence, we are not inclined to grant bail to the petitioners at this stage.

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

**(Ajay Kumar Gupta, J.)**

**(Joymalya Bagchi, J.)**