

07.11.2022

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Allowed

CRM (DB) No. 3645 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Khargram Police Station Case No. 301 of 2018 dated 20.11.2018 under Sections 341/323/325/326/307/347/302 of the Indian Penal Code.

And

In Re : Rohim Sk. @ Abdur Rahim Sk. petitioner

Ms. Minoti Gomes

Md. Hafiz Ali

.....for the petitioner

Mr. Pravas Bhattacharya

Mr. Suman De

....for the State

Mr. A. Ahammed

.... for de facto complainant

Learned Counsel appearing for the petitioner submits he is in custody for 114 days. It is also submitted that there was a domestic quarrel and the petitioner has been falsely implicated. Co-accuseds are on bail. He prays for bail.

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

Learned Counsel appearing for the de facto complainant also opposes the prayer for bail and submits the petitioner had absconded for a protracted period of time.

We have considered the materials on record. Petitioner is not the principal accused who assaulted the deceased. It is contended the incident occurred in the course of a quarrel between two groups. Whether the petitioner

shared common intention to murder requires to be assessed in the light of the aforesaid circumstance during trial. Co-accuseds are on bail.

Under such circumstances, we are of the opinion though further detention of the petitioner may not be necessary but his movement requires to be restricted in order to ensure his regular attendance before the court below.

Accordingly, we direct that the petitioner shall 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, Kandi, Murshidabad, on further conditions that while on bail the petitioner shall remain within the jurisdiction of Khargram Police Station until further orders except for the purpose of attending court proceeding and shall report to the Officer in Charge of the Khargram Police Station once in a week until further orders. Petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)

