

08.08.2023.
28.
Ct.No.28
as
(Rejected)

C.R.M. (DB) 3798 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Canning P. S. Case No.494 of 2021 dated 25.11.2021 under Sections 302/120B/201/212 of the Indian Penal Code and Sections 27/35 of the Arms Act.

In the matter of : Rafique Sk.

... Petitioner.

Mr. Sourav Chatterjee,
Mr. Sandip Dinda.

...for the Petitioner.

Mr. Neguive Ahmed, Id. A.P.P.,
Mrs. Manasi Roy.

...for the State.

Md. Sabir Ahmed,
Mr. Aneek Pandit,
Ms. S. Mitra,
Mr. Ali Rizvi,
Mr. Avijit Kundu.

...for the de-facto complainant.

Petitioner submits he had been granted bail by a Co-ordinate Bench of this Court. But the bail was cancelled by the Hon'ble Apex Court as his criminal antecedents had not been taken into consideration. Matter was remitted to this Court for fresh consideration. He contends has been falsely implicated in the case. Co-accused are on bail. There is no possibility of his abscondence. Hence, he may be enlarged on bail.

Learned Additional Public Prosecutor submits petitioner does not stand on the same footing with the co-accused who have been enlarged on bail. He was present at the spot. Miscreants had come in a auto rickshaw and fired at the

victim. CCTV footage corroborates presence of the petitioner as the place of occurrence. He has criminal antecedents.

Learned Advocate for the de-facto complainant also opposes the bail prayer.

We have considered the materials on record. Petitioner and other miscreants came in a auto rickshaw. They alighted and fired at the victim. As a result, the victim died. Presence of the petitioner at the place of occurrence is *prima facie* established through statements of witnesses as well as CCTV footage. Co-accused who have been enlarged on bail were not present at the spot. He cannot claim parity with them. That apart, he has 11 criminal case pending against him.

In view of the aforesaid incriminating materials showing *prima facie* involvement of the petitioner in the murder and his criminal antecedents, we are not inclined to grant bail to the petitioner.

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

Trial court is requested to proceed with the trial with utmost expedition and conclude the same at an early date without granting unnecessary adjournment to either of the parties.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)