

22.11.2022

21

sdas

rejected

C.R.M. (DB) No. 3800 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kakdwip Police Station Case No. 114 of 2018 dated 23.06.2018 under Sections 341/323/325/302/506/34 of the Indian Penal Code.

And

In Re : Prakash Mondal @ Bubai petitioner

Mr. Samim Ahammed

Mr. Arka Ranjan Bhattacharya

Mr. Golsanwara Pervin

... for the petitioner

Mr. Neguive Ahmed, learned APP

Ms. Jonaki Saha

... for the State

Learned Counsel appearing for the petitioner submits he is in custody for 237 days. He renews his prayer for bail. It is also submitted that bail prayer of the petitioner was cancelled. Thereafter, he has been taken into custody. It is further submitted that cancellation orders of co-accuseds have been stayed by the learned Apex Court in Special Leave Petition (Criminal) 4261-4262 of 2022. Hence, he prays for bail.

Learned Counsel appearing for the State opposes the prayer for bail and submits bail of the petitioner was cancelled for entirely different considerations than that of the co-accuseds. Petitioner had procured bail from the Sessions Court on the fraudulent submission that he is an old and ailing person. There are ample materials connecting the petitioner with the crime.

We have considered the materials on record. Petitioner was initially released on bail on the basis of false submission that he is an elderly person who was suffering from ailments. Petitioner is in his twenties and by no stretch of imagination can be said to be an old and ailing person. In view of such perversity, his bail order came to be cancelled. Bail prayer of co-accuseds were cancelled on the ground that they had been enlarged on bail with parity with the petitioner. Correctness of such order has been assailed before the Apex Court wherein the said orders have been stayed. As the ground for cancellation of bail of the petitioner is entirely different from that of the co-accuseds, we are not inclined to grant bail to the petitioner on the score that the cancellation orders of co-accuseds have been stayed.

In order to satisfy ourselves with regard to the involvement of the petitioner in the crime we have examined the evidence on record. Evidence of the eye-witnesses clearly show he participated in the assault which resulted in death of the victim. Trial is in progress.

Keeping in mind the gravity of the offence and prima facie involvement of the petitioner therein, we are not inclined to grant bail to him at this stage.

The application for bail is, thus, rejected.

We, however, direct the trial court to take steps to conduct the trial with utmost expedition and conclude the same at an early date.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)

