

05.12.2022.
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as
(Allowed)

C.R.M. (DB) 4046 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Harishchandrapur P. S. Case No.385 of 2022 dated 15.05.2022 under Sections 447/342/363/365/506/323/120B/34 of the Indian Penal Code and charge sheet submitted under Sections 302/201/34 of the Indian Penal Code.

In the matter of : Isop Ali @ Yusof Ali.

.... Petitioner.

Mr. Sekhar Kr. Basu, Id. Sr. Adv.,
Mr. Tapan Dutta Gupta,
Mr. Parvej Anam,
Md. Hidayetullah.

...for the Petitioner.

Mr. Neguive Ahamed, Id. A.P.P.,
Mrs. Trina Mitra.

...for the State.

Ms. Minoti Gomes,
Mr. Asfak Ahammed.

...for the de-facto complainant.

Pursuant to our earlier direction, Investigation Officer is present in Court today. His presence is noted and dispensed with.

Petitioner is in custody for 173 days. It is contended there is no direct evidence connecting him with the murder.

Learned Advocate for the State opposes the prayer for bail and produces report with regard to complicity of the petitioner.

Learned Advocate for the de-facto complainant also opposes the prayer for bail. She submits petitioner was present at the spot. He had telephonic conversations with co-accused viz., Abdul Basir.

We have considered the materials on record. There is no direct evidence connecting the petitioner with the murder. Co-accused viz., Nurjahan Bibi (whose bail application has been turned down by this Court) had telephonic conversations with the victim as well as Abdul Basir soon before the incident. Call data records of the petitioner show telephonic conversations with Abdul Basir. Apart from the aforesaid materials, nothing is placed before us to show petitioner was present at the time of occurrence. He does not stand on the same footing with co-accused viz., Nurjahan Bibi who had telephonic conversations with the victim as well as Abdul Basir shortly before the murder.

In view of the extent of implication of the petitioner in the crime and as there is little possibility of the trial concluding in the near future, we are inclined to grant bail to the petitioner, however, subject to strict conditions.

Accordingly, the petitioner viz., Isop Ali @ Yusof Ali 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, Chanchal, Malda subject to condition that he shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever and on further condition that the petitioner while on bail shall not enter the jurisdiction of Harishchandrapur Police Station except for the purposes of investigation and/or attending court

proceeding and shall provide the address where he shall reside while on bail to the Investigating Officer as well as the court below and report to the Officer-in-charge of the concerned Police Station within whose jurisdiction he shall reside once in a week until further orders.

In the event the petitioner fails to appear before the Trial Court without any 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, thus, disposed of.

(Ajay Kumar Gupta,J.)

(Joymalya Bagchi, J.)