

09.01.2023

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rejected

C.R.M. (DB) No. 7 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Bagnan Police Station Case No. 406 of 2022 dated 06.08.2022 under Sections 341/323/325/307/386/302/34 of the Indian Penal Code.

And

In Re : Rakesh Dolui & Anr. petitioners

Mr. Milan Mukherjee, Sr. Adv.

Mr. Mihir Banerjee

Mr. Malay Bhattacharyya

.... for the petitioners

Mr. Rudradipta Nandy, learned APP

Mrs. Sonali Das

..... for the State

Learned Counsel appearing for the petitioners submits they are in custody for 157 days. It is also submitted that the petitioners have been falsely implicated in the case. Though petitioners were arrested at the spot, motor cycle and stolen cash were recovered subsequently. Body of the deceased shows marks of de-composition which is highly unlikely as the death had occurred one day prior to the post mortem examination. Hence, they pray for bail.

Learned Counsel appearing for the State opposes the prayer for bail and submits that the petitioners tried to flee from the spot and were arrested. Subsequently motor cycle with cash was recovered.

We have considered the materials on record. Statements of the eye-witnesses show that the petitioners apprehended a

truck on a public road pretending to be police personnel. They extracted money and papers from the occupants of the truck. They were unhappy with the quantum of money received. They assaulted the driver who died. Soon after the incident petitioners were arrested. Documents of the truck were recovered from them. Post mortem report shows marks of head injury resulting in death which corroborates the ocular statements relating to the incident.

In view of the aforesaid incriminating materials and 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.)