

30.01.2023
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allowed

CRM(DB) No. 335 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Krishnagar Kowtali Police Station Case No. 439 of 2018 dated 19.09.2018 under Sections 341/326/307/34 of the Indian Penal Code and subsequently added Section 302 of the Indian Penal Code.

And

In Re : Goutam Ghosh & Anr. petitioners

Mr. Prabir Majumder

Mr. Snehansu Majumder

.....for the petitioners

Mr. Prasun Kumar Datta, learned APP

Mr. Santanu Deb Roy

..... for the State

Leave is granted to the learned Counsel for the petitioners to amend the cause title.

Learned Counsel appearing for the petitioners submits they are in custody for four years and four months. It is also submitted there is delay in trial. They are not the principal accuseds. Incident occurred in the course of a sudden quarrel among family members. They pray for bail.

Learned Counsel appearing for the State opposes the prayer for bail and submits petitioners had participated in the assault. Trial is in progress.

We have considered the materials on record. Though statements of witnesses show petitioners were present in the spot and were armed, the fatal blow appears to have been struck by one Madhu Ghosh. No other injury is noted in the body of the deceased. Role and extent of complicity of the petitioners in the

assault requires to be assessed in the light of the aforesaid circumstances. They are in custody for four and half years. There is no possibility of the trial concluding in the near future. Keeping in mind the role of the petitioners in the crime and protracted period of detention suffered by them, we are inclined to grant bail to them.

Accordingly, we direct that the petitioners viz. 1) Goutam Ghosh and (2) Ashis Ghosh shall be released on bail upon furnishing a bond of Rs.10,000/- each with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Nadia at Krishnagar, subject to conditions that petitioners 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 petitioners fail to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel their 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.)