

09.08.2023.
47.
Ct.No.28.
as

C.R.M. (DB) 655 of 2023

In Re: An application for cancellation of bail under Section 439(2) of the Code of Criminal Procedure.

In the matter of : Rentu Sk.

... Petitioner.

Mr. Kusal Kr. Mukherjee,
Ms. Pranidhi Singh.

...for the Petitioner.

Mr. Swapan Banerjee,
Mr. Anindya Sundar Chatterjee.

....for the State.

Mr. U. A. Dewan,
Mr. A. Dewan.

...for the Opp. Party No.2.

Order dated 4.4.2022 passed by the learned Additional Sessions Judge, 1st Court, Jangipur, Murshidabad granting bail to the opposite party no.2. has been assailed.

Learned Advocate for the petitioner submits trial court did not consider the gravity of the offence. Materials on record show opposite party no.2 had assaulted Ejajul Sk, Samser Sk and Giasuddin Sk with a knife. As a result, Ejajul Sk. died.

Learned Advocate for the opposite party no.2 submits investigation is complete and he has not misused his liberty.

We have considered the materials on record. Conclusion of investigation is not the only criteria for enlargement of an accused on bail. Gravity of offence involving life imprisonment and materials collected in support of the accusation must also be taken into consideration. Allegation in the FIR as well as the statements of witnesses show

opposite party no.2 had acted in a daring manner. He had come to collect money. After collection of money, he struck at Ejajul Sk. resulting in his death. He also caused injuries upon Samser Sk. and Giasuddin Sk. Injury reports have been collected in the course of investigation. Offence is very serious and no extenuating circumstance justifying such violent act is pleaded before us.

Accordingly, we are of the opinion order granting bail suffers from non-consideration of vital and relevant considerations i.e. gravity of offence, conduct of the accused and overwhelming evidence collected in support of the accusation.

Hence, the order granting bail is set aside.

The opposite party no.2 is directed to forthwith surrender before the court below within seven days from date. In the event, he fails to do so trial court as well as prosecuting agency shall issue appropriate processes to ensure his attendance in accordance with law.

Case diary be returned.

The application for cancellation of bail is, thus, disposed of.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)