

23.02.2023
tkm/ct 28
sl no. 53

C.R.M. (DB) 719 of 2023

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Raina P.S case no. 292 of 2021 dated 23.10.2021 under sections 302/307/120B/34 IPC read with sections 25/27 of the Arms Act

And

Allowed

In Re : Md. Saddam @ Saddam Hossain & Anr. petitioners

Mr. Jaydeep Biswas

..... for the petitioners

Mr. M Sur

Mr. Arabinda Manna

..... for the State

Mr. Rana Mukhopdahyay

..... for the de facto complainant

Petitioner no. 1 is in custody for 481 days and Petitioner no. 2 is in custody for 462 days. It is contended co-accused Md. Sorab Ali has been enlarged on bail. They pray for bail.

Learned lawyer for the State opposes the bail prayer. He submits petitioner no. 1 is the mastermind of the crime. He had purchased the vehicle which was used to commit the crime. Petitioner no. 2 was present at the place of occurrence. He has been identified by witnesses. Bail prayer of Co-accused Somnath Mondal was rejected.

Learned lawyer for the de facto complainant also opposes the bail prayer.

We have considered materials on record. Petitioner no. 1 Md. Saddam was not present at the place of occurrence. It is contended that he is the mastermind. He had procured the vehicle and had also supplied the weapons to commit the murder. We have gone through the statement of witnesses. Sale deed does not

show petitioner no 1 had purchased the vehicle. Whether he purchased it in the name of another accused requires to be established during trial. Petitioner no. 1 does not stand on the same footing with Somnath Mondal who was present at the place of occurrence and had been identified by witnesses. Keeping in mind the extent of complicity of petitioner no. 1 in the alleged crime, we are inclined to grant bail to him.

However, petitioner no. 2 has been identified by witnesses. He stands on the same footing with co-accused Somnath Mondal whose bail prayer was rejected earlier. Hence, we are not inclined to grant bail to him.

Accordingly, the petitioner no. 1 viz Md. Saddam @ Saddam Hossain 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 CJM, Purba Bardhaman on condition that the petitioner no. 1 shall appear before the trial court on every date of hearing and shall not intimidate witnesses or tamper with evidence in any manner whatsoever and on further condition that the petitioner no. 1 while on bail shall not enter the jurisdiction of Narkeldanga P.S until further orders and shall provide address where he shall presently reside to the investigating officer as well as to the court below and shall report to the officer in charge of the P.S concerned within whose jurisdiction he shall presently reside once in a week until further orders.

In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

In the event petitioner no. 1 resorts to dilatory tactics, the trial court shall be at liberty to cancel his bail in accordance with law.

The application being CRM (DB) 719 of 2023 is disposed of.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)