

24.02.2023
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Partly Allowed

CRM (DB) No. 758 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Burwan Police Station Case No. 300 of 2022 dated 30.10.2022 under Sections 341/325/307/302/34 of the Indian Penal Code.

And

In Re : Hasmat Mia & Ors. petitioners

Mr. Hafiz Ali

....for the petitioners

Ms. Zareen N. Khan

Mr. Asif Dewan

....for the State

Learned Counsel for the petitioners submits they are in custody for over 100 days. Investigation is complete. There was a free fight. Petitioners and their associates also suffered injuries. Counter case was registered. They pray for bail.

Learned Counsel for the State opposes the prayer for bail.

We have considered the materials on record. There was a free fight. Both the parties suffered injuries. Case and counter case were registered. But petitioner no. 3 dealt the fatal blow on the victim. In view of the aforesaid circumstances, we are inclined to grant bail to the petitioner nos. 1 and 2.

Accordingly, we direct that the petitioner nos. 1 and 2 viz. 1) Hasmat Mia and 2) Banai Mia 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 Additional Sessions Judge, Kandi, Murshidabad, subject to the condition that the petitioner nos. 1 and 2 shall appear before the learned trial court on every date of hearing until further orders and shall not intimidate witnesses and/or tamper with evidence in any manner whatsoever.

In the event, the petitioner nos. 1 and 2 fail to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel the bail of the petitioner nos. 1 and 2 in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed in so far as petitioner nos. 1 and 2 are concerned.

Keeping in mind the principal role played by petitioner no. 3 viz. Hasikul Sk. @ Chand Sk. in the trial we are not inclined to grant bail to him at this stage.

The application for bail in so far as petitioner no. 3 is, thus, rejected.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)

