

24.03.2023.
36.
Ct.No.28
as
(Allowed)

C.R.M. (DB) 1083 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Baruipur P. S. Case No.1766 of 2022 dated 16.11.2022 under Sections 302/201/120B of the Indian Penal Code.

In the matter of : Jamat Ali Molla.

.... Petitioner.

Mr. Angshuman Chakraborty,
Mr. S. S. Saha.

...for the Petitioner.

Ms. Zareen N. Khan,
Md. Kutubuddin.

...for the State.

Mr. Apalak Basum
Mr. Omar Faruk Gazi.

...for the de-facto complainant.

Petitioner is in custody for 84 days. Investigation is complete. He submits there is no direct evidence connecting him with the murder. He prays for bail.

Learned Advocate for the State opposes the bail prayer. She submits one Azad and his friend were urinating at a place. The deceased had taken their picture. This enraged them. Thereafter, on the date of occurrence Azad and his friend came in an auto-rickshaw and committed murder.

Learned Advocate for the de-facto complainant submits one of the co-accused is absconding.

We have considered the materials on record. Two witnesses who claimed to be eye witnesses to the assault do not name the petitioner. Petitioner has also not been put up for Test Identification Parade during investigation. His complicity

transpires from statements of other witnesses who saw the petitioner drinking and travelling in a auto-rickshaw with principal accused Azad. Whether the said circumstance by itself establishes his complicity in the murder particularly when the eye witnesses neither named him nor had he been put up for T. I. Parade requires to be assessed during trial. Principal accused Azad is in custody. Petitioner is not related to the absconding co-accused. Hence, his further detention is of little relevance to his arrest.

Under such circumstances, we are inclined to grant bail to the petitioner subject to conditions.

Accordingly, the petitioner Jamat Ali Molla shall 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 Chief Judicial Magistrate, Alipore, South 24-Paraganas subject to condition that he shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever and on further condition that the petitioner while on bail shall not enter the jurisdiction of Baruipur Police Station and shall provide the address where he shall reside to the Investigating Officer as well as the court below and report to the Officer-in-charge of the Police Station concerned within whose jurisdiction he shall reside once in a week until further orders.

In the event the petitioner fails to appear before the Trial Court without any justifiable cause, the trial Court shall

be at liberty to cancel his bail in accordance with law without further reference to this Court.

The application for bail is, thus, disposed of.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)