

17.04.2023
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allowed

CRM(DB) No. 1507 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Balurghat Police Station Case No. 668 of 2022 dated 16.09.2022 under Sections 302/201/120B/34 of the Indian Penal Code.

And

In Re : Amzad Sarkar @ Raju @ Amjad Ali Sarkar & Anr..... petitioners

Mr. Jayanta Narayan Chatterjee

Mr. Kaushik Choudhury

Ms. Busra Khatun

....for the petitioners

Mr. Neguive Ahmed, learned APP

Ms. Trina Mitra

.... for the State

Learned Counsel for the petitioners submits they are in custody for about 70 days. It is also submitted they are the former inmates of the rehabilitation center. They had gone to the center for treatment. Seeing victim with injuries they moved him to the hospital. Victim succumbed to his injuries. They have been falsely implicated. They pray for bail.

Learned Counsel for the State opposes the prayer for bail and submits petitioners gave out a false explanation with regard to the cause of injuries i.e. public lynching.

We have considered the materials on record. There is no evidence that the petitioners were with the victim in the rehabilitation center. Purported incorrect explanation given by the petitioners with regard to the cause of injuries requires to be assessed in the light of absence of other incriminating circumstances. There is no direct evidence connecting the

petitioners with the murder. Under such circumstances, we are of the opinion further detention of the petitioners is not necessary and they may be enlarged on bail.

Accordingly, we direct that the petitioners 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, Dakshin Dinajpur, subject to the condition 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.)