

28.04.2023.
19.
Ct.No.28
as
(Allowed)

C.R.M. (DB) 1700 of 2023

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

In the matter of : Prasenjit Ghosh & Anr.

.... Petitioners.

Mr. Kaushik Choudhury.

...for the Petitioners.

Ms. Zareen N. Khan,

Mr. Ashok Das.

...for the State.

It is contended petitioners are in custody for 217 days.
Co-accused viz., Amjad Sarkar @ Raju @ Amjad Ali Sarkar and Saju Sarkar are on bail.

Learned Advocate for the State opposes the bail prayer. She submits victim was a drug addict and had been admitted in the rehabilitation centre. Statement of Bratin Kumar Roy implicates the petitioners in the assault. They had taken the victim to the hospital and left him there without disclosing his identity.

We have considered the materials on record. Victim was admitted in the rehabilitation centre. Though statement of Bratin Kumar Roy recorded under Section 161 of the Code of Criminal Procedure implicates the petitioners as the assailants, in his statement recorded under Section 164 of the Code of Criminal Procedure he primarily ascribed the role to Ranadip Ghosh, Raghu Chaki and Mahadeb Chowdhury @ Bittu. There

is vague reference to other authorities but their identity is not disclosed.

In view of the aforesaid dichotomy with regard to the role of the petitioners in the assault, we are inclined to release them on bail.

Accordingly, the petitioners viz., Prasenjit Ghosh and Bablu Miah 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 at Balurghat subject to condition that they 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.

In the event the petitioners fail to appear before the Trial Court without any 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, thus, disposed of.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)