

04.05.2023
Sl. No.19
akd
[ALLOWED]

C. R. M. (DB) 1810 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 01.05.2023 in connection with Beldanga Police Station Case No.602 of 2022 dated 07.10.2022 under Sections 325/326/427/307/302/34 of the Indian Penal Code. (G.R. Case No.4365 of 2022)

And

In Re: ***Md. Ansar Ali @ Ansar Ali***

... .. Petitioner

Mr. Niladri Sekhar Ghosh
Mr. Pradip Kumar Nandi

... .. for the petitioner

Mr. Tapodip Gupta

... .. for the de-facto complainant

Mr. Saswata Gopal Mukherjee .. Id. Public Prosecutor
Mr. Parthapratim Das
Mrs. Manasi Roy

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for about 166 days. It is further submitted an order was passed by the competent authority to demolish a boundary wall of the de-facto complainant's property. While demolition was in progress, the de-facto complainant and his associates obstructed. A commotion ensued and two persons were injured. One succumbed to his injuries. Petitioner has been falsely implicated. Accordingly, he prays for bail.

Learned Advocate for the State opposes the prayer for bail and submits petitioner has been named by witnesses.

Learned Advocate for the de-facto complainant also opposes the prayer for bail.

We have considered the materials on record. A demolition order was passed against the de-facto complainant. Incident occurred in course of execution of the said order. Under such circumstances, mere

presence of the petitioner at the spot would not lead to an inference of sharing common intention to murder. Statements of injured eyewitness recorded under Section 164 of the Code of Criminal Procedure do not attribute overt act to the petitioner in the assault of the deceased or the injured witness. Keeping in mind the role of the petitioner in the crime and other attending circumstances and in view of the period of detention suffered by him, we are of the opinion further detention of the accused/petitioner is not necessary.

Therefore, the accused/petitioner, namely ***Md. Ansar Ali @ Ansar Ali***, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Berhampore, Murshidabad subject to condition that the said petitioner 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 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.

The application for bail, thus, stands allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)