

04.05.2023.
20.
Ct.No.28
as
(Rejected)

C.R.M. (DB) 1811 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Duttapukur P. S. Case No.135 of 2021 dated 03.03.2021 under Sections 302/34 of the Indian Penal Code.

In the matter of : Panchu Gopal Dey.

... Petitioner.

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

...for the Petitioner.

Mrs. Anasuya Sinha,
Mr. Pinak Kr. Mitra.

...for the State.

Petitioner is in custody for one year and eight months. He submits is not the principal assailant. In spite of direction given by this Court to conclude trial within six months in CRM 5671 of 2021, trial has not concluded. He prays for bail.

Learned Advocate for the State opposes the bail prayer. He submits petitioner was present at the place of occurrence and participated in the assault. Four witnesses have already been examined.

We have considered the materials on record. Statement of eyewitness recorded under Section 164 of the Code of Criminal Procedure shows presence and participation of the petitioner in the assault. Charge has been framed with the aid of Section 34 of the Indian Penal Code and prosecution is required to prove common intention to murder and not the specific overt act of each accused.

Under such circumstances and as trial has substantially progressed, we are not inclined to grant bail to the petitioner.

Accordingly, the prayer for bail of the petitioner is rejected.

We request the trial court to expedite the trial and conclude the same at an early date without granting unnecessary adjournment to either of the parties.

(Ajay Kumar Gupta,J.)

(Joymalya Bagchi, J.)