

18.05.2023.
34.
Ct.No.28
as
(Allowed)

C.R.M. (DB) 2018 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kaliachak P. S. Case No.1503 of 2022 dated 31.12.2022 under Sections 302/120B/34 of the Indian Penal Code and under Sections 25/27 of the Arms Act.

In the matter of : Md. Mirja Khan @ Sabir Khan.
.... Petitioner.

Md. Wasim Akram.
...for the Petitioner.

Mr. Madhusudan Sur, Id. A.P.P.,
Mr. Dipankar Paramanick.
...for the State.

Petitioner is in custody for 135 days. There is no direct evidence connecting him with the murder. He prays for bail.

Learned Advocate for the State opposes the bail prayer. He submits bail prayer of Md. Ashik Nawaz was turned down by this Court.

We have considered the materials on record. Case is based on circumstantial evidence. CDRs collected during investigation show telephonic conversations between Md. Ashik Nawaz and the victim. No telephonic conversation between the petitioner and the victim is placed on record. It is true telephonic conversations between the petitioner and co-accused have been collected but its contents are unknown. No legally admissible evidence showing supply of arms by the petitioner is also placed before us.

Under such circumstances, we are of the opinion petitioner does not stand on the same footing with co-accused Md. Ashik Nawaz whose bail prayer was rejected.

In light of the aforesaid circumstances, keeping in mind the extent of the role of the petitioner in the crime and as investigation is complete, we are inclined to grant bail to the petitioner.

Accordingly, the petitioner viz., Md. Mirja Khan @ Sabir Khan 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, Malda 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.

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.

Presence of the Investigating Officer is noted and dispensed with.

The application for bail is, thus, disposed of.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)