

08.08.2023.  
27.  
Ct.No.28  
as  
(Rejected)

**C.R.M. (DB) 2163 of 2023**

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Canning P. S. Case No.494 of 2021 dated 21.11.2021 under Sections 302/120B/201/212 of the Indian Penal Code and Sections 27/35 of the Arms Act.

In the matter of : Hafijul Rahaman @ Hajijul.  
... Petitioner.

Mr. Debarshi Barhma,  
Ms. Ipsita Ghosh.  
...for the Petitioner.

Mr. Rudradipta Nandy, ld. A.P.P.,  
Mr. Swapan Banerjee,  
Mr. Suman De.  
...for the State.

Md. Sabir Ahmed,  
Mr. Aneek Pandit,  
Ms. S. Mitra,  
Mr. Ali Rizvi,  
Mr. Avijit Kundu.  
...for the de-facto complainant.

Inadvertent typographical error had crept into the order dated 02.08.2023.

In the cause title portion of the order 'Rahamat Gazi' shall be read as 'Hafijul Rahaman @ Hajijul'.

Other portions of the order shall remain the same.

Department is directed to incorporate necessary correction in the order.

Corrected certified copy of the order be handed over to the parties upon submission of the certified copy, if any, already issued to them.

Petitioner is the driver of the auto rickshaw. He submits he was hired by the miscreants and had no role to play in the crime. Co-accused are on bail. He prays for bail.

Learned Additional Public Prosecutor submits petitioner was the driver of the auto rickshaw. They came to the spot and fired at the victim resulting in the latter's death. Co-accused who have been enlarged were not present at the place of occurrence. Petitioner has criminal antecedents.

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

We have considered the rival submissions of the parties in the light of the materials on record. Allegation in the First Information Report and statements of witnesses show petitioner was driving the auto rickshaw and was present at the time of occurrence. He shared common intention with others to commit the murder. Co-accused who have been enlarged on bail were not present at the spot. Petitioner cannot claim parity with the said co-accused. That apart, petitioner has criminal antecedents. Prayer for bail of co-accused viz., Rahamat Gazi has turned down by this Court today in CRM (DB) 2162 of 2023.

Under such circumstances, we are not inclined to grant bail to the petitioner at this stage.

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

Trial court is requested to proceed with the trial with utmost expedition and conclude the same at an early date without granting unnecessary adjournment to either of the parties.

**(Ajay Kumar Gupta, J.)**

**(Joymalya Bagchi, J.)**