

18.07.2023
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allowed

CRM(DB) No. 2849 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kaliganj Police Station Case No. 302 of 2022 dated 13.05.2022 under Sections 341/325/326/307/34 of the Indian Penal Code and subsequently added Section 302 of the Indian Penal Code.

And

In Re : Md. Imran Sk. & Anr. petitioners

Mr. Prabir Majumder

Mr. Snehansu Majumder

....for the petitioners

Mr. Saibal Bapuli, learned APP

Mr. Bibaswan Bhattacharya

.... for the State

Leave is granted to correct the cause title.

Learned Counsel for the petitioners submits they are in custody for 161 days. Co-accused are on bail. They pray for bail on parity.

Learned Counsel for the State opposes the prayer for bail and submits petitioner no. 1 is named in the dying declaration. Eye-witnesses implicate the petitioner no. 2 as the principal accused.

We have considered the materials on record. Co-accused, Sahidul Sk. and Anarul Sk. who are named in the dying declaration of the victim are on bail. Petitioner no. 1 stands on the same footing with the said co-accused and is entitled to similar relief. There is a dichotomy between the statement of the deceased and the eye-witnesses with regard to the role of petitioner no. 2 as the principal assailant. Deceased has not

uttered his name. On the other hand, he attributes the assault to other. Eye-witnesses give a different version of the incident. Keeping in mind the aforesaid contradiction with regard to the role of petitioner no. 2 in the crime we are inclined to grant bail to him.

Accordingly, we direct that the petitioners 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, Nadia at Krishnanagar, subject to conditions that petitioners shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioners fail to appear before the trial court without 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, accordingly, allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)