

24.01.2023
tkm/ct 28
sl no.56

C.R.M. (DB) 2619 of 2022

In Re : An application for cancellation of bail under Section 439(2)
of the Code of Criminal Procedure.

In Re : Muktar @ Muktor Mondal petitioner

Mr. Shibaji Kumar Das
Ms. Rupsa Sreemani

..... for the petitioner

Mr. Sourav Chatterjee
Mr. Aniruddha Bhattacharya

... for the OP nos. 2, 3, 5 & 6

Mr. Ranadeb Sengupta

... for the State

Learned lawyer for the petitioner submits trial court did not consider the gravity of offence. Opposite parties had fired at the victim with the intention to murder. Without considering the case diary and giving opportunity of hearing to the learned Public Prosecutor, bail was granted.

Learned lawyer for the opposite party no. 2 submits victim did not suffer gun-shot injury. Injuries are not life threatening. Co-accuseds were granted bail. Taking into consideration such fact, opposite party nos. 2, 3, 5 and 6 have been granted interim bail on parity.

We have considered the materials on record. In view of the submission made by the petitioner that the victim suffered gun-shot injury and documents submitted in support of such plea we sought a clarification from the State with regard to nature of injuries.

Report is placed on record. From the report it appears that the victim suffered a lacerated scalp injury. No burn injury or bullet powder was found. No entry or exit wound is also noted.

In view of the aforesaid forensic finding we are of the opinion whether the victim was fired at and suffered gun-shot injury may be thrashed out during trial. Co-accuseds similarly circumstanced with opposite party nos. 2, 3, 5 and 6 are on bail. No adverse report with regard to the said opposite parties are placed before us.

It is true the court below did not hear the prosecutor while releasing the said opposite parties on bail. However, bail granted to them was an interim one and the court below could have cancelled the bail if any incriminating materials showing a graver role of the opposite parties vis-a-vis co-accuseds on bail could have been demonstrated. No such case is made out before us.

Hence, we are not inclined to interfere with the order granting interim bail to the said opposite parties.

All issues are kept open to be agitated at the appropriate stage in accordance with law.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)