

23.08.2023.
23.
Ct.No.28
as
(Rejected)

C.R.M. (DB) 3075 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Manikchak P.S. Case No.69 of 2023 dated 02.02.2023 under Sections 323/302/34 of the Indian Penal Code.

In the matter of : Dilip Rabidas @ Rabi Das & Ors.
... Petitioners.

Mr. Abhra Mukherjee,
Mr. Fajdeep Bhattacharya,
Mr. Sauradeep Dutta,
Mr. S. K. Mondal.

...for the Petitioners.

Mr. Saswata Gopal Mukherji, ld. P.P.,
Mr. Nguive Ahmed, ld. A.P.P.,
Ms. Trina Mitra.

...for the State.

1. Petitioners submit they are in custody for more than 200 days. There was a sudden altercation and petitioners did not intend to murder the victim. Co-accused is on bail. They pray for bail.
2. Learned Advocate for the State opposes the bail prayer. He submits petitioners had assaulted the victim. As a result, he suffered injuries and died. Charge sheet referred to a dying declaration but no dying statement was placed on record. Accordingly, this Court directed the Investigating Officer to be present and submit report. Report is placed on record.
3. We have considered the materials on record including the report. From the report, bed head ticket and the letter of

the medical officer it appears no dying statement had been recorded. But statements of eyewitnesses show petitioners had participated in the assault. This resulted in the death of the victim. Co-accused who is on bail is a lady. Petitioners cannot claim parity with her. Date has been fixed for consideration of charge. Offences, if proved, would attract mandatory life imprisonment.

4. Under such circumstances, we are not inclined to grant bail to the petitioners.

5. Accordingly, the prayer for bail of the petitioners is rejected.

6. Presence of the Investigating Officer is noted and dispensed with.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)