

11.08.2023.
13.
Ct.No.28.
as
(Allowed)

C.R.M. (DB) 3102 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Nowda P.S. Case No.330 of 2022 dated 24.11.2022 under Sections 302/34/120B of the Indian Penal Code and Sections 25/27/35 of the Arms Act and Sections 3 & 4 of the Explosive Substances Act and charge sheet submitted under Sections 302/34/120B of the Indian Penal Code.

In the matter of : Rajkumar Kabiraj @ Khadekul Kaviraj
@ Khaleque Kabiraj @ Rankumar @
Khaleque @ Khalekul Kabiraj.
.... Petitioner.

Mr. Sudipto Maitra, Id. Sr. Adv.,
Mr. Vijay Verma,
Mr. Dwaipayan Biswas.

...for the Petitioner.

Mr. Madhusudan Sur, Id. A.P.P.,
Mr. Manoranjan Mahata.

...for the State.

1. Petitioner is in custody for 250 days. He submits there is no legally admissible evidence connecting him with the murder. He renews his bail prayer.
2. Learned Advocate for the State opposes the bail prayer. He submits petitioner had enmity with the victim. He was seen along with co-accused following the victim in the market place. Subsequently, there was a bomb blast and victim died. Upon arrest, recovery of incriminating articles i.e. Aadhaar Card and Voter Card of the victim was made from the petitioner.
3. We have considered the materials on record. There is no direct evidence petitioner was present at the place of occurrence where the victim had been murdered. Statements of

witnesses show they were seen in the market place following the victim.

4. However, witnesses had not named the petitioner as one of the persons who were seen fleeing away from the place of occurrence after the incident. Recovery of Aadhaar Card and Voter Card of the victim from the petitioner was one month after the incident. There is no explanation why the petitioner would preserve the Voter's Card and Aadhaar's Card of the deceased, if he was involved in this murder.

5. With regard to the criminal antecedents, we note petitioner is on bail in one case and has been discharged from the other.

6. Keeping in mind the nature of evidence collected in the course of investigation and as there is no progress in the matter since rejection of bail by this Court, we are of the opinion further detention of the petitioner is not necessary and he may be enlarged on bail subject to strict conditions.

7. Accordingly, the petitioner viz., Rajkumar Kabiraj @ Khadekul Kaviraj @ Khaleque Kabiraj @ Rankumar @ Khaleque @ Khalekul Kabiraj 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, Mursidabad at Berhampore 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 and on further condition that the petitioner while on bail shall

meet the Officer-in-charge of Nowda Police Station once in a week until further orders.

8. 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.

9. This application for bail is, thus, disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)