

17.08.2023
D/L 42
Ct. No.28
Allowed
(SKB)

CRM (DB) 3229 of 2023

In Re:- An application for bail under section 439 of the Code of Criminal Procedure in connection with Goalpokher P.S. Case No.75 of 2023 dated 18.02.2023 under Sections 147/148/149/326/307/302/506/34 of the Indian Penal Code read with Sections 25(1-A)/27/35 of the Arms Act (G.R. Case No.394/2023)

And

In the matter of : Saklen Mustak @ Johoni
... Petitioner

Mr. Niladri Sekhar Ghosh,
Mr. Shaharayar Alam
... for the petitioner

Mr. Nguive Ahmed, APP,
Ms. Trina Mitra
... for the State

Mr. Mrityunjoy Chakraborty,
Mr. M. N. Chowdhury
... for the defacto complainant

1. Petitioner submits he is not the principal accused. Co-accused have been enlarged on bail. He is in custody for 179 days. He may be released on bail.
2. Learned lawyer for the State opposes the bail prayer. He submits after granting bail to the co-accused, one of the injured has succumbed. Date has been fixed for framing of charge.
3. We have considered the materials on record. Statements of witnesses show the presence of the petitioner at the

place of occurrence. Though it is claimed they were armed but no firearm was recovered from the petitioner. Admittedly, the petitioner had not fired on the victim who had died.

4. In this backdrop, it can be said petitioner is standing on the same footing with co-accused Sahadat Reja @ Shahadat Raja and Sardar Ahmed @ Sardar Alam who have been enlarged on bail. Hence, we are inclined to extend the same privilege to the petitioner also.
5. Therefore, the petitioner namely Saklen Mustak @ Johoni be released on bail upon furnishing a bond of Rs.10,000/-(Rupees Ten thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Addl. Sessions Judge, 1st Court, Islampur, Uttar Dinajpur subject to condition that the said petitioner 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.
6. In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.
7. The application for bail is, thus, disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

