

12.09.2023.
24.
Ct.No.28.
as
(Partly
Allowed)

C.R.M. (DB) 3343 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Burwan P.S. Case No.227 of 2021 dated 13.08.2021 under Sections 341/326/307/302/120B/34 of the Indian Penal Code and under Section 3/4 of the Explosive Substances Act with adding Section 25/27 of the Arms Act.

In the matter of : **Saddam Sk. & Ors.**

.... Petitioners.

Mr. Sudip Banerjee,
Ms. Keya Banerjee,
Mr. Sanjoy Kr. Das.

...for the Petitioners.

Mr. Neguive Ahmed, Id. A.P.P.,
Ms. Amita Gaur.

...for the State.

1. Petitioners have approached this Court on the ground co-accused have been enlarged on bail by this Court as well as by the Hon'ble Apex Court.

2. Learned Advocate for the State submits Saddam Sk. and Sabur Sk do not stand on the same footing with the said co-accused. They had attacked the victim earlier. A separate criminal case being Burwan P.S. Case No.19 of 2018 dated 16.01.2018 under Sections 341/326/307/286/427/34 of the Indian Penal Code and under Sections 3/4 of the Explosive Substances Act was registered against them.

3. We have considered the materials on record. Co-accused including one Sukur Sk. @ Asadulla Seikh had been released by this Court as well as by the Hon'ble Apex Court. Petitioner

Nos.3 and 4 more or less stand on the same footing with the said co-accused. But petitioner Nos.1 and 2 stand on a different footing. There are materials to show these petitioners had earlier made an attempt on the life of the deceased by throwing bombs. Deceased was murdered in similar fashion. These incriminating materials puts the culpability of petitioner Nos.1 and 2 on a higher footing than the other co-accused who are on bail.

4. Hence, we are not inclined to grant bail to petitioner Nos.1 and 2 on parity but decline to do so far as the petitioner Nos.3 and 4 are concerned.

5. Under such circumstances, we are not inclined to grant bail to petitioner nos.1 and 2.

6. Hence, the prayer for bail of petitioner nos.1 and 2 is rejected.

7. In view of the above, we are inclined to grant bail to petitioner Nos.3 and 4.

8. Accordingly, petitioner No.3, Rejaul Mir @ Mithu Mir and 4) Furai Sk. 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 Additional Chief Judicial Magistrate, Murshidabad at Kandi subject to condition that they 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.

9. In the event petitioner Nos.3 and 4 fail to appear before the Trial Court without any justifiable cause, the trial Court shall be at liberty to cancel their bail in accordance with law without further reference to this Court.

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

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)