

04.10.2023.
41.
Ct.No.28.
as
(Allowed)

C.R.M. (DB) 3818 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Burrabazar P.S. Case No.211 of 2020 dated 31.10.2020 under Sections 394/397/307/34 of the Indian Penal Code and Section 25(1B)(a) of the Arms Act.

In the matter of : **Akshay Sharma @ Suresh & Anr.**

.... Petitioners.

Mr. Karan Sharma,
Md. Zohaib Rauf.

...for the Petitioners.

Mr. Madhusudan Sur, Id. A.P.P.,
Mr. Dipankar Paramanick.

...for the State.

1. Petitioners are in custody for three years. It is contended they are not the principal accused. There is delay in trial. They pray for bail.
2. Learned Advocate for the State opposes the bail prayer. He submits petitioners had assailed the framing of charge resulting in delay for more than a year. Five witnesses have been examined.
3. We have considered the materials on record. Petitioners do not appear to be the principal accused. Though there was delay of a year on the score petitioners had assailed the charges framed against them, it is undeniable they are in custody for three years. Only five witnesses have been examined. Offences, even if proved, would not attract mandatory life imprisonment. Unlike co-accused Sikandar Ali @ Sikander @ Rehan @ Sikku, they had not absconded.

4. Under such circumstances, we are inclined to grant bail to the petitioners subject to conditions.

5. Accordingly, the petitioners viz., 1) **Akshay Sharma @ Suresh** and 2) **Ravinder Ojha @ Ravi Ojha @ Rabi Ojha** 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 Metropolitan Magistrate, Calcutta 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 and on further condition that the petitioner while on bail shall remain within the Municipal limits of Kolkata and shall report to the Officer-in-charge, Anti Dacoity Section once in a week until further orders.

6. In the event the petitioners 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.

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

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)