

13.10.2023.
18.
Ct.No.28.
as
(Partly
Allowed)

C.R.M. (DB) 3830 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Uttarpara P.S. Case No.372 of 2022 dated 12.10.2022 under Sections 341/323/325/307/34/302 of the Indian Penal Code.

In the matter of : **Sanjoy Mondal @ Paku & Ors.**

.... Petitioners.

Mr. Sekhar Kr. Basu, Id. Sr. Adv.,
Mr. Shiladitya Banerjee,
Mr. Abhijit Ganguly.

...for the Petitioners.

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

...for the State.

1. Petitioners are in custody for 358 days. They contend they have been falsely implicated. They pray for bail.
2. Learned Advocate for the State opposes the bail prayer. He submits statement of eyewitness recorded under Section 164 of the Code of Criminal Procedure discloses the role of the petitioners in the crime. Oral dying declaration in the electronic gadget recorded by a witness also implicates petitioner Nos.2 and 3.
3. We have considered the materials on record. Recorded dying declaration and the statement of eyewitness recorded under Section 164 of the Code of Criminal Procedure implicate petitioner Nos.2 and 3 in the crime. Though petitioner No.1 is named by the witness, the victim has not stated his role in the assault.

4. In view of the aforesaid dichotomy, we are not inclined to grant bail to petitioner Nos.2 and 3.

5. Hence, the prayer for bail of petitioner nos.2 and 3 is rejected.

6. In view of the fact petitioner is not named in the recorded dying declaration, we are inclined to grant bail to him.

7. Accordingly, petitioner No.1, **Sanjoy Mondal @ Paku** 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 Additional Chief Judicial Magistrate, Serampore, Hooghly 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.

8. In the event 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.)