

18.10.2023
Sl. No.26
akd
[ALLOWED]

C. R. M. (DB) 3899 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 04.10.2023 in connection with Chittaranjan Police Station Case No.22 of 2020 dated 17.07.2020 under Sections 302/120B of the Indian Penal Code and Sections 25/27 of the Arms Act and subsequently charge sheet submitted under Sections 302/34/120B/201 of the Indian Penal Code and Section 27 of the Arms Act. (G.R. Case No.1380 of 2020)

And

In Re: ***Mukesh Balmiki***

... .. Petitioner

Mr. Rhiddhiman Mukherjee
Mr. Arkaprabho Roy

... .. for the petitioner

Mr. Avik Ghatak
Mr. Saibal Dasgupta

... .. for the de-facto complainant

Mr. Sudip Ghosh
Mr. Bitasok Banerjee

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for more than three years. It is further submitted eyewitnesses have not identified him as one of the assailants. Accordingly, he prays for bail.
2. Report is placed on record.
3. Learned Advocate for the State submits other vital witnesses are yet to be examined.
4. Learned Advocate for the de-facto complainant opposes the prayer for bail and submits associates of the accused had threatened witnesses and a separate case was started against them.
5. We have considered the materials on record. Eyewitnesses to the incident have been examined. They failed to identify the petitioner as one of the assailants. None of the other prosecution witnesses claim to have seen the incident. One of them made statement before

police that he had seen the petitioner having food with the deceased. In view of the nature of evidence on record particularly of the eyewitnesses who did not identify the petitioner as one of the assailants, we are of the opinion further detention of the accused/petitioner is not necessary and he may be enlarged on bail however, subject to strict conditions.

6. Therefore, the accused/petitioner, namely **Mukesh Balmiki**, 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 Additional Chief Judicial Magistrate, Asansol, Paschim Bardhaman 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 and on further condition that the petitioner, while on bail, shall not enter the district of Paschim Bardhaman except for the purpose of attending court proceedings and shall provide the address where he shall presently reside to the Investigating Agency as well as the court below and shall report to the Officer-in-charge of the police station concerned within whose jurisdiction he shall presently reside once in a week until further orders.
7. 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.
8. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

