

18.10.2023
Sl. No.35
akd
[ALLOWED]

C. R. M. (DB) 4086 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 11.10.2023 in connection with Nabadwip Police Station Case No.194 of 2023 dated 18.04.2023 under Sections 448/325/326/308/304/379/506/34 of the Indian Penal Code.

And

In Re: ***Samir Debnath & Anr.***

... .. Petitioners

Mr. Debabrata Roy
Mrs. Karabi Roy

... .. for the petitioners

Mr. Prasun Kr. Datta .. Id. Addl. Public Prosecutor
Mr. Pradipta Ganguli

... .. for the State

1. By consent of the parties, the matter is taken up for hearing today.
2. It is submitted on behalf of the petitioners that they are in custody for about 175 days. It is further submitted there was a free fight and both parties suffered injuries. Intention to kill was absent. Accordingly, they pray for bail.
3. Learned Advocate for the State opposes the prayer for bail and submits victim suffered a large number of injuries. Six of them were on the vital parts of the body.
4. We have considered the materials on record. No doubt victim suffered multiple injuries; some of them were on the vital parts of the body. But statements of witnesses do not show that the petitioners were the authors of the injuries on the vital parts of the body of the deceased. Hence, the complicity of the petitioners has to be tested in the light of constructive liability i.e. common intention. On this score, it may be relevant to note that there was a free fight and both parties suffered injuries. Allegations against the petitioners are

general and omnibus. They have suffered incarceration for about six months and there is no chance of their abscondence.

5. Under such circumstances, we are of the opinion further detention of the petitioners is not necessary.
6. Therefore, the petitioners, namely **(1) Samir Debnath & (2) Basu Debnath @ Basudeb Debnath**, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only) each, with two registered sureties of like amount each, to the satisfaction of the learned Judicial Magistrate, Nabadwip at Nadia subject to condition that the said petitioners 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.
7. In the event they fail to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel their bail automatically without reference to this court.
8. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)