

14.12.2023
Item No.3
Ct. No. 5
CHC
(Partly allowed)

C.R.M.(DB) 4201 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Tangra/DD** Police Station Case No. **58** of **2023** dated **08.03.2023** under Sections **302/394/201** of the Indian Penal Code, 1860.

And

In the matter of: Rabbani Ahmed @ Gulam Rabbani & ors.
..... petitioners

Mr. Sourav Chatterjee,
Md. Zeeshan Uddin,
Ms. Amrin Khatoon
....for the petitioners

Mr. Ranabir Roy Chowdhury,
Mr. Sandip Chakraborty
....for the State

The application for bail is taken up for consideration subsequent to order dated December 7, 2023.

Report as called for submitted in Court be taken on record.

The report states that, the video conference facility was not available on the relevant date. However, report also speaks

of a Judicial Officer being capable of undertaking VC through other facilities available.

Petitioner no.3, namely, Sk. Riyaj @ Sk. Nizam apparently stands on the same footing as that of the co-accused who was enlarged on bail by the order dated October 5, 2023. The materials in the Case Diary suggest that the petitioner no.3 was involved in the incident subsequent to the commission of murder. Apparently, petitioner no.3 was involved in the disposal of the dead body.

Since the petitioner no.3, *prima facie* appears to be on the same footing as that of other co-accused who was granted bail by the order dated October 5, 2023 passed in CRM(DB) 3852 of 2023 by the coordinate Bench, we extend the same facility to the petitioner no.3, namely, Sk. Riyaj @ Sk. Nizam.

So far as the other two petitioners are concerned, learned advocate appearing for the petitioners submits that, trial was split up as against the petitioner no.2. Petitioner no.2 is in custody. Therefore, petitioner no.2 would remain in custody without trial.

We clarify that our previous order dated December 7, 2023, such order cannot be construed to be a mandatory order for splitting up of trial. In the event, the petitioner no.2 is aggrieved by the order of splitting up he is at liberty to take appropriate application with regard thereto. The appropriate Court so approached will not be constrained by any of the

observation or direction contained in our order dated December 7, 2023 or this order.

Involvement of the petitioner no.1, namely, Rabbani Ahmed @ Gulam Rabbani and petitioner no.2, namely, Noor Ayesha in the murder appears in the materials in the Case Diary.

Charges stand framed as against the petitioner no.1 and 3.

In view of the gravity of the offence and involvement of the petitioners as transpiring therein, we are unable to grant bail to the petitioner no.1, namely, Rabbani Ahmed @ Gulam Rabbani and petitioner no.2, namely, Noor Ayesha.

Accordingly, we direct that the petitioner no.3, Sk. Riyaj @ Sk. Nizam 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, Sealdah, South 24 Parganas, subject to the condition that the petitioner no.3 shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioner no.3, Sk. Riyaj @ Sk. Nizam fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel the bail of the

petitioner no.3, Sk. Riyaj @ Sk. Nizam without further reference to this Court.

Prayer for bail of the petitioner no.3, Sk. Riyaj @ Sk. Nizam is allowed.

CRM(DB) 4201 of 2023 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)