

28.11.2023
tkm/ct 28
sl no. 51

C.R.M. (DB) 4283 of 2023

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Chopra P.S case no. 234 of 2023 dated 30.3.2023 under sections 326/307//302/34 of the IPC read with sections 25(1)(a)/27/35 of the Arms Act
and

Allowed

In Re : Sakir & Ors.

..... petitioners

Mr Sekhar Kr. Basu, Sr Adv
Mr. Soubhik Mitter
Mr. A Basu
Mr. M Basak

..... for the petitioners

Ms. Z N Khan

..... for the State

Mr. N S Ghosh
Mr. M Nazar Chowdhury
Mr. Sourav Mondal
Ms. P Saha

..... for the de facto complainant

1. Mr. Basu for the petitioners argues petitioner no. 2 had not been named by the injured witness i.e. Afjal. Petitioner no. 1 stands on the same footing with co-accused who are on bail. Accordingly, he prays for bail.

2. Learned lawyer for the State opposes the bail prayer. She contends witness stated Sajid Akhtar was present at the place of occurrence and was armed. Fire arm was recovered from his possession.

3. We have considered the materials on record including our earlier order dated 25.9.2023 in CRM (DB) 3355 of 2023 refusing bail to petitioner nos. 2, 3 and 4. Injured witness stated that petitioner nos. 2 and 3 and one Nasir Akhtar had fired at the victim. But this court had not only taken into consideration the statement of the said witness but other witnesses also who had

seen petitioner no. 2 and some of the miscreants were armed with fire arm were at the place of occurrence. Fire arm was also recovered from petitioner no. 2. Hence, we are not inclined to grant bail to petitioner nos. 2, 3 and 4.

4. Petitioner no. 1 stands on the same footing with the co-accused who have been enlarged on bail. Hence, his bail prayer is allowed.

5. Accordingly, the petitioner no. 1 i.e. Sakir 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 ACJM Islamur, Uttar Dinajpur on condition that the petitioner shall appear before the trial court on every date of hearing and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

6. 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.

7. The application being CRM (DB) 4283 of 2023 is disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)