

23.11.2023
tkm/ct 28
sl no. 57

C.R.M. (DB) 4418 of 2023

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Entally P.S case no. 314 of 2022 dated 12.10.2022 under sections 307/34 IPC read with sections 25(IB)(a)/27 of the Arms Act

and

Allowed

In Re : Sujoy Patra @ Sujay Patra

... petitioner

Mr. Sabyasashi Banerjee
Mr. S Banerjee
Mr. Arnab Saha

..... for the petitioner

Mr. N Ahmed
Ms. Amita Gaur

..... for the State

1. Petitioner is in custody for 410 days. It is submitted out of two persons i.e. Md. Abid and Md. Nasim who claimed to have identified him in court, Md. Nasim has been examined and he admitted that the place was dark and it was not possible for him to see anything. Accordingly he prays for bail.
2. Learned lawyer for the State opposes the bail prayer. He contends petitioner is a habitual criminal. He has criminal antecedents.
3. We have considered the materials on record. Though witnesses have claimed to have identified the petitioner as one of the assailants, during investigation Md. Nasim in his deposition claimed he was unable to come out with the correct name of the victim. During cross examination he admitted that he was a pocket witness of the police and the place was dark and he could not see anything. In view of the quality of the evidence on record with regard to identification of the petitioner, we are of the opinion no worthwhile purpose would be served to detain the petitioner in

custody. Apprehension expressed on behalf of the State that petitioner is a habitual offender the same may be addressed by subjecting him to strict conditions instead of protracting his under trial detention.

4. Accordingly, it is directed the petitioner 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 Sealdah 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 and on further condition that the petitioner while on bail shall not enter into the jurisdiction of Entally P.S and shall provide the address where he shall be residing to the Investigating Officer as well as the Court below and shall report to the officer-in-Charge within whose jurisdiction he shall presently reside once in a week until further orders.

5. 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.

6. The application being CRM (DB) 4418 of 2023 is disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)