

19.12.2023

126
sdas
Allowed

C.R.M. (DB) No. 4521 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Girish Park Police Station Case No. 144 of 2022 dated 28.07.2022 under Sections 302/307/34 of the Indian Penal Code.

And

In Re : Sk. Ismail Rahman & Ors. petitioners

Mr. Somopriyo Chowdhury

Mr. Dipayan Dan

.....for the petitioners

Mr. Madhusudan Sur, learned APP

Mr. Aminul Islam

.....for the State

Ms. Baisali Basu

..... for de facto complainant

1. Learned Counsel for the petitioners submits they are related to the victim. A dispute cropped up over running a common business. Both parties suffered injuries. Victim was discharged from hospital on 28th July, 2022 but succumbed to his injuries on 1st August, 2022. There is nothing to show petitioners had intention to murder the victim. They pray for bail.

2. Learned Counsel for the State opposes the prayer for bail and submits victim suffered grievous injuries on his head. As a result he died.

3. We have considered the materials on record including the postmortem report. We note there was a free fight between the parties. Petitioners also suffered fracture injury on the

head. Though there are head injuries on the victim he was discharged from hospital on 28th July, 2022. Subsequently he expired. Whether petitioners intended to commit the murder requires to be assessed in the light of the aforesaid attending circumstances viz. free fight between the parties causing injuries to both the parties and time gap between the incident and death of the victim. Keeping in mind the aforesaid circumstances we are inclined to grant bail to the petitioners.

4. Accordingly, we direct that the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- each with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Metropolitan Magistrate, Calcutta, subject to conditions that petitioners 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.

5. In the event petitioners fail to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel their bail in accordance with law without further reference to this Court.

6. The application for bail is, accordingly, allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

