

03.07.2023
Item no.17.
Court No.01.
S. De
(Allowed)

Circuit Bench of Calcutta High Court
at Jalpaiguri

CRM (DB) No. 275 of 2023

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure filed on 05.06.2023 in connection with Birpara Police Station Case No. 20 of 2023 dated 07.02.2023 under Sections 304 of the Indian Penal Code, 1860.

And

In the matter of : Bapi Ghosh & Anr. Petitioners.

Mr. Hillol Saha Poddar,
Ms. Mousumi Das, for the Petitioners.

Mr. Abhijit Sarkar,
Mr. Tapan Bhattacharjee for the State.

Heard learned counsel for the petitioners as well as learned counsel for the State. On behalf of the petitioners, it is contended that considering the fact that the investigation has already been completed and also considering the fact that the petitioners are languishing in jail for a considerable period of time, the instant application for bail may be considered favourably.

Learned counsel for the State opposes the prayer for bail.

On perusal of the entire material in the Case Diary as presented before us, it appears to us that admittedly the present accused petitioners are named in the FIR and their names are also appearing in the other materials collected so far in

accordance with the Code of Criminal Procedure. However, considering the fact that the injuries of the victim are basically not on the vital parts of the body (though our finding is tentative in nature) and considering the period of detention and also the fact that the charge-sheet has been submitted, we are inclined to exercise our discretion under Section 439 of the Code of Criminal Procedure in favour of the petitioners.

Accordingly, we direct that the petitioners, namely Bapi Ghosh and Ajit Lakra @ Ajit Oraon @ Ajit Oroan @ Lakra 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 Judicial Magistrate, Alipurduar and on further conditions that they shall remain within the jurisdiction of the concerned police station and they shall report to the Officer-in-Charge of the concerned police station once in a fortnight until further orders.

The 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 and/or commit any cognizable offence in any manner whatsoever.

In the event the petitioners fail to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioners' bail in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Partha Sarathi Sen, J.)

(Arijit Banerjee, J.)