

16. 06.07.2023
Court
No.1 Tanmoy Ghosh

Allowed

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

CRM (DB) 369 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973, in connection with **Alipurduar Police Station Case No. 80 of 2023** dated **09.03.2023** under Sections **304/34** of the Indian Penal Code, 1860.
And

In the matter of: - **Rakesh Dey**

...petitioner.

Mr. Arnab Saha, Adv.

...for the petitioner.

Mr. Aditi Shankar Chakraborty, Ld. APP,
Mr. Aniruddha Biswas, Adv.

...for the State.

Heard learned Advocate for the petitioner and learned Advocate for the State at length.

At the very outset, learned Advocate for the present accused/petitioner submits before this Court that the present accused/petitioner is not named in the written complaint. It is contended that subsequently, at a later stage, the present accused/petitioner has been falsely implicated. It is further contended that considering the fact that the investigation has already been completed, the present application for bail may be considered favourably.

While opposing the prayer for bail, learned Advocate for the State, at the very outset, draws attention of this Court to the statements of the relatives of the victim wherefrom the role of the present accused/petitioner is found *prima facie* prominent. The mode of assault upon the victim also gets due support from the report of the autopsy Surgeon.

However, considering the fact that investigation is stated to have been completed in the meantime and keeping in mind that this is not a fit case for custodial trial, we are inclined to take a lenient view and accordingly allow the prayer for bail.

Accordingly, we direct that the present accused/petitioner, namely, **Rakesh Dey**, shall be released on bail upon furnishing a bond of Rs. 10,000/- with two registered sureties of like amount each, to the satisfaction of the learned Additional Chief Judicial Magistrate, Alipurduar, on condition that the present accused/petitioner shall not leave the territorial jurisdiction of the learned trial Court unless permitted by the said Court till conclusion of trial and with a further condition that the present accused/petitioner shall appear before the learned trial Court on each date of substantive hearing subject to the provisions of Section 317 of the Code of Criminal Procedure, 1973. The present accused/petitioner shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

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

The application for bail being CRM (DB) 369 of 2023 is accordingly allowed and disposed of.

(Arijit Banerjee, J.)

(Partha Sarathi Sen, J.)