

AD-58
Ct No.01
Jalpaiguri
20.09.2023
B.Pal

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CRM (DB) 566 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 11.09.2023 in connection with Crl. Misc. Case no. 74 of 2023 arising out of Boxirhat Police Station Case No. 269 of 2023 dated 08.07.2023 under Sections 341, 326, 307, 302 and 34 of the Indian Penal Code, 1860.

And

In the matter of: DINESH BARMAN @ DINESH CHANDRA BARMAN

...Petitioner

Ms. Suman Sehanabis (Mandal),
Mr. Salok Sah

... for the petitioner

Mr. Kallol Acharjee,
Mr. Aniruddha Biswas

... for the State

1. The petitioner contends that the petitioner is in custody for 80 days and that the petitioner was framed, inasmuch as the petitioner was arrested on July 7, 2023 whereas the complaint itself was lodged on the next date, that is, on July 8, 2023. It is further argued that the petitioner is about 70 years of age and there was no specific allegation in the complaint against the petitioner as such.
2. Learned counsel for the State vehemently opposes the prayer for bail and submits that there was a general diary entry lodged on July 7, 2023 when the alleged offence took place.

On the basis of such initial diary, the police arrested the petitioner. Hence, there was no discrepancy in the complaint being lodged on the next date and the petitioner being arrested on July 7, 2023. Moreover, it is reiterated by learned counsel of the State that the evidence against the petitioner is overwhelming. As such, since the investigation is still going on, bail ought not to be granted.

3. Keeping on balance the right of the petitioner to personal liberty and the circumstances of the case and in view of the gravity of the offence and the fact that the investigation is still going on, we are not inclined to grant bail to the petitioner at this stage.
4. Accordingly, CRM (DB) 566 of 2023 is dismissed.
5. Liberty is granted to the petitioner to renew his prayer for bail after the charge-sheet is submitted and the trial is commenced.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)