

D/L. 31.
September 21, 2023.
MNS

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (DB) 568 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 12.09.2023 in connection with Bhaktinagar Police Station Case No.1354 of 2022 dated 19.12.2022 under Sections 341/506/324/325/326/302/34 of the Indian Penal Code, 1860.

And

In the matter of: Ankit Sharma

.... Petitioner

Mr. Jaydeep Kanta Bhowmik,
Mr. Partha Prtim Sarkar,
Mr. Sayantan Bhowmik,
Ms. Rikta Sarkar

... for the petitioner

Mr. Sagnik Shankar Sikdar

... for the State

1. Learned counsel for the petitioner submits that the petitioner is in custody for about 275 days.
2. It is argued that in the absence of pre-mediation, the appropriate provision which was required to be invoked against the petitioner is at best Section 304 and not Section 302 of the Indian Penal Code.
3. Learned counsel for the State opposes the prayer for bail and submits that the petitioner was the principal accused and his prayer for bail was refused on April 25, 2023 by the trial court.

4. Although we cannot accept the submissions of the petitioner at this stage, that the offence pertains to Section 304 as opposed to Section 302 of the Indian Penal Code, since the same is the subject matter of trial as well as keeping in view the fact that the petitioner was the primary accused of stabbing the victim, we find that custodial trial is no longer necessary at the present juncture, since the trial is on way and the petitioner is in custody for about 275 days.
5. Hence, CRM (DB) 568 of 2023 is allowed, thereby granting bail to the petitioner on condition that the petitioner furnishes bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Jalpaiguri.
6. The petitioner shall not leave the territorial jurisdiction of the trial court during the entire period of trial and shall attend the trial on each and every date.
7. The petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts and circumstances of the case so as to dissuade such person from disclosing such facts to any police officer or the court and/or tamper with the evidence in any manner whatsoever.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)