

30.01.2024

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rejected

C.R.M.(DB) No. 254 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Nowda Police Station Case No. 211 of 2023 dated 08.07.2023 under Sections 302/286/34 of the Indian Penal Code read with Sections 3/4 of the Explosive Substances Act.

And

In Re : Idrak Molla @ Ibrak Hossain Molla Petitioner

Mr. Soumyajit Das Mahapata

Ms. Soma Mal

Ms. Rabia Khatoon

Ms. J. Modak

Ms. Juel Rana

....for the petitioner

Mr. Jaydeep Biswas

..... for the State

1. Learned Counsel for the petitioner submits he is in custody for 190 days. It is also submitted he was not present at the place of occurrence. He has been falsely implicated due to political rivalry. Statement of eye-witness recorded under Section 164 of the Code of Criminal Procedure has not been believed by the prosecution in full. In fact, co-accused, Safiuajjaman Sk. @ Habib and Monirul Molla named by the said witness had been discharged from the case. Accordingly, he prays for bail.

2. Learned Counsel for the State opposes the prayer for bail and submits further investigation shows Safiuajjaman Sk. @ Habib and Monirul Molla were not present at the spot.

3. We have considered the materials on record. We have examined the statements of the eye-witnesses to the incident recorded under Section 161 of the Code of Criminal Procedure at page nos. 4,10,11,12 and 13 of the case diary. In all these statements petitioner has been named as the assailant. He is also named as assailant in the statement of one of the witnesses recorded under Section 164 of the Code of Criminal Procedure at page no. 137 of the case diary. Name of Safiuajjaman Sk. @ Habib, though occurring in the statement under Section 164 of the Code of Criminal Procedure does not find place in the statements of the eye-witnesses at page nos. 4,10,11,12 and 13 of the case diary. Investigation also shows he was present at a different place at the time of occurrence. Similarly Monirul Molla has not been named by the witnesses whose statements have been recorded under Section 161 of the Code of Criminal Procedure. In this backdrop we are of the opinion petitioner cannot claim parity with the co-accused who have been discharged from the case. On the other hand, statements of eye-witnesses implicate the petitioner in the murder. Accordingly, we are not inclined to grant bail to the petitioner at this stage.

4. The application for bail is, thus, rejected.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)