

07.03.2024
Sl. No.26
akd
[ALLOWED]

C. R. M. (DB) 737 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 29.02.2024 in connection with Gangarampur Police Station Case No.23 of 2021 dated 19.01.2021 under Sections 341/326/307/302/34 of the Indian Penal Code and Sections 3/4 of the Explosive Substances Act. (G.R. Case No.52 of 2021)

And

In Re: **Mukesh Sarkar @ Mukesh Chandra Sarkar**
... .. Petitioner

Mr. Milon Mukherjee .. Sr. Advocate
Mr. Dattatreya Dutta
... .. for the petitioner

Ms. Faria Hossain
Ms. Mayukhi Mitra
... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about 557 days. It is further submitted there is no progress in trial. Co-accused viz. Anil Das, Alok Das and Nepal Sarkar have been enlarged on bail. Accordingly, he renews his prayer for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits delay is due to abscondence of co-accused.
3. We have considered the materials on record. Statement of injured witness implicates the petitioner in the assault. However, co-accused viz. Nepal Sarkar, Anil Das and his son, Alok Das similarly circumstanced with the petitioner have been enlarged on bail. That apart, death was due to gunshot injury and petitioner is not attributed with firing at the deceased. Whether he shared the common intention to murder with co-accused who fired at the deceased may be assessed during trial. Keeping in mind the period of detention suffered by the petitioner and his role in the assault, we are of the opinion further detention of the accused/petitioner is not necessary.

4. Therefore, the accused/petitioner, namely **Mukesh Sarkar @ Mukesh Chandra Sarkar**, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Gangarampur, at Buniadpur, Dakshin Dinajpur subject to condition that the said petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.
5. In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.
6. The application for bail, thus, stands allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)