

29.04.2024  
tkm/ct 28  
sl no. 17

**C.R.M. (DB) 879 of 2024**

In Re : An application for bail under section 439 Cr.P.C in connection with Joynagar P.S case no. 501 of 2023 dated 13.11.2023 under section 302/34/120B IPC and sections 25/27 of the Arms Act

And

In Re : Haydar Sk @ Haydar Ali Sekh ..... petitioner

Mr. Uttam Kr. Halder

..... for the petitioner

Mr. Debasish Roy, Id PP

Ms. Anasuya Sinha

Mr. Arup Sarkar

..... for the State

Mr. Moyukh Mukherjee

Mr. Arijit Singh

Mr. Sahidur Rahaman

..... for the de facto complainant

1. Petitioner is in custody for 146 days. He submits he has been falsely implicated. He played no role either in the conspiracy or in the murder. He prays for bail.
2. Learned public prosecutor opposes the bail prayer. He contends statements of witnesses show petitioner along with principal conspirator Anichur Laskar and others had a meeting where they decided to do away with the deceased who had protested against illegal sand business conducted by Anichur. Pursuant to the conspiracy, some of the accused came in motorcycles and shot the victim dead. While trying to flee away, they dashed against another vehicle and were caught. One of them (Saifuddin Laskar) was murdered at the spot. Statements of witnesses with regard to participation of the petitioner in the conspiracy is corroborated by CDRs showing telephonic conversations between the petitioner and other co-accused.

Furthermore, latitude-longitude report with regard to location of mobile phone used by the petitioner corroborates the statements of witnesses with regard to his presence at the conspiracy site as well as the place of occurrence.

3. In response learned counsel submits the place of conspiracy is a market place and it cannot be ruled out that the petitioner was present for other purposes.
4. We have considered the materials on record in light of the submissions made by the parties. One Saifuddin objected to the illegal mining business of Anichur. In protest, shop rooms of co-accused Robiul Sardar an associate of Anichur were shut down in the locality. As per prosecution case Anichur Laskar along with others including the petitioner had a meeting in the evening of 12.11.2023 where they decided to do away with Saifuddin Laskar. Mojjammel Mistry stated he had seen the petitioner and others held a meeting where a decision was taken. His version was corroborated by Nasiruddin Sardar. Initially police was unable to identify the mobile phone used by the petitioner. He refused to co-operate. During custodial interrogation it came to light that he used SIM card of another person at the time of occurrence. Working out this information police collected CDRs which showed repeated telephonic conversation between the petitioner and other co-accused. Latitude-longitude report also corroborated his presence at the conspiracy site as well as at the place of occurrence on the next day. It is argued the conspiracy site is a market place. Presence

of the petitioner may be for other innocuous reasons. This defence does not hold water in light of the statements of the independent witnesses and other circumstances establishing conspiracy and participation in the murder.

5. In view of the aforesaid incriminating materials on record and gravity of offence, we are not inclined to grant bail to the petitioner.
6. Accordingly, prayer for bail is rejected.

**(Gaurang Kanth, J.)**

**(Joymalya Bagchi, J.)**