

29.04.2024
Sl. No.20
akd
[Rejected]

C. R. M. (DB) 910 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 14.03.2024 in connection with R.C. No. 0562021S0024 dated 28.08.2021 arising out of Nalhati Police Station Case No.146 of 2021 dated 14.05.2021 under Sections 302/201/34 of the Indian Penal Code and subsequently charge sheet submitted under Sections 302/364/34 of the Indian Penal Code.

And

In Re: ***Chand Mohammad Ali @ Chano & Anr.***

... .. Petitioners

Mr. Sabir Ahmed
Md. Abdur Rakib
Mr. Tasnim Ahmed
Ms. Suman Biswas

... .. for the petitioners

Mr. Kallol Mondal
Mr. Somnath Adhikary

... .. for the CBI

1. It is submitted on behalf of the petitioners that they are in custody for about two years. It is further submitted petitioners were not named in the FIR. Proceeding before the trial court was stayed by the order of the Hon'ble Apex Court in Transfer Petition (Criminal) Diary No. 51357/2023. Accordingly, they pray for bail.
2. Learned Advocate for the CBI submits report and opposes the prayer for bail.
3. We have considered the materials on record. Statements of witnesses show petitioner no.2 and another were following the victim and other co-accused. Witnesses further stated they followed them and witnessed the assault. Petitioner no.1 subsequently came to the spot and also participated in the assault. After case was transferred to CBI, statements of witnesses were recorded before Magistrate implicating the petitioners. This explains the delay in recording their statements. Bail prayer of the petitioners was rejected earlier on

merits. Though it is stated no further allegation of threat has been recorded, witnesses before Magistrate claimed that they may be killed if the accused i.e. the petitioners were released on bail.

4. In view of the aforesaid apprehension expressed by the witnesses (who are yet to be examined in court) in their statements before Magistrate as well as gravity of the offence which if proved would attract life imprisonment, we are not inclined to grant bail to the petitioners at this stage.
5. The application for bail is thus rejected.
6. It is open to the petitioners to seek vacating and/or variation of the stay order before the Hon'ble Apex Court, if so advised.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)