

03.04.2024
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allowed

CRM (DB) No. 951 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Raiganj Police Station Case No. 833 of 2023 dated 03.08.2023 under Sections 302/34 of the Indian Penal Code.

And
In Re : Abdul Kalam petitioner

Mr. Kaushik Choudhury
Ms. Busra Khatun
.....for the petitioner

Ms. Zareen N. Khan
Mr. Arup Sarkar
.... for the State

1. Learned Counsel for the petitioner submits he is not the principal accused. Co-accused Mirajul Hoque is on bail. He prays for bail.

2. Learned Counsel for the State opposes the bail prayer and submits petitioner had exhorted others to kill.

3. We have considered the materials on record. Petitioner did not participate in the assault. Co-accused Mirajul Hoque who was present and had participated in the assault (but was not the principal assailant) has been enlarged on bail. Whether the statements of witnesses with regard to exhortation are embellishments requires to be seen during trial. Under such circumstances, we are inclined to grant bail to the petitioner.

4. Accordingly, we direct that the petitioner shall be released on bail upon furnishing a 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, Raiganj, Uttar Dinajpur, subject to conditions that petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

5. In the event the petitioner fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

6. The application for bail is, accordingly, allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)