

05.04.2024
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allowed

CRM (DB) No. 1003 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Malda Police Station Case No. 211 of 2023 dated 25.04.2023 under Sections 302/120B/34 of the Indian Penal Code and under Sections 25/27 of the Arms Act.

And
In Re : Hajarat Sekh petitioner

Mr. Ayan Bhattacharya
Mr. Sagar Saha
....for the petitioner

Mr. Joydeep Roy
Mr. Karan Bapuli
.... for the State

1. Learned Counsel for the petitioner submits he is in custody for about a year. It is also submitted vital witnesses PW 4 and PW 5 have not supported the prosecution case. In view of the aforesaid development he prays for bail.

2. Learned Counsel for the State opposes the bail prayer and submits petitioner had conspired with contract killers to murder his wife.

3. We have considered the materials on record. Petitioner is a conspirator. Disclosure of his intention to his sisters, PW 4 and PW 5 has not been proved as the said witnesses did not support the prosecution case. In view of the aforesaid lacunae in the prosecution case we are of the opinion further detention of the petitioner is unjustified and he may be released on bail.

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, Malda, 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.)