

19.04.2024
Sl. No.34
akd
[ALLOWED]

C. R. M. (DB) 1217 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 02.04.2024 in connection with Harishchandrapur Police Station Case No.178 of 2023 dated 03.03.2023 under Sections 302/201 of the Indian Penal Code. (G.R. Case No.531 of 2023)

And

In Re: **Asharul Sk. @ Asarul Sk. @ Asarul @ Balla**
... .. Petitioner

Mr. Kallol Mondal
Mr. Krishan Ray
Mr. Souvik Das
Mrs. Sabnam Laskar
Mr. Saptarshi Pakrashy
... .. for the petitioner

Mr. Bibaswan Bhattacharya
Ms. Rajnandini Das
... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for more than a year. It is further submitted there is no direct evidence connecting the petitioner with the crime. Purported extra-judicial confession was made under pressure and coercion and is inadmissible in law. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits petitioner had dispute with his elder brother. He had motive to commit the crime. He made extra-judicial confession before his father. Offending weapon was also recovered on his leading statement.
3. We have considered the materials on record. Prosecution case hinges on circumstantial evidence. It is stated there was enmity between the brothers. Prosecution also relies on extra-judicial confession before the father and others. Petitioner contends confession was procured through coercion. Extra-judicial confession

is a weak piece of evidence. Voluntariness and its probative value require to be assessed in course of trial. Petitioner is in custody for more than a year. There is no possibility of trial concluding in the near future. There is no chance of abscondence.

4. Under such circumstances, we are of the opinion further detention of the accused/petitioner is not necessary.
5. Therefore, the accused/petitioner, namely **Asharul Sk. @ Asarul Sk. @ Asarul @ Balla**, 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 Sessions Judge, Chanchal, Malda 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.
6. 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.
7. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)