

19.04.2024
Sl. No.31
akd
[ALLOWED]

C. R. M. (DB) 1214 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 10.04.2024 in connection with Kandi Police Station Case No.632 of 2023 dated 21.10.2023 under Sections 302/120B/34 of the Indian Penal Code and Sections 25/27 of the Arms Act. (G.R. Case No.1985 of 2023)

And

In Re: **Raju @ Sabiur Rahaman @ Sabibur Rahaman**
... .. Petitioner

Mr. Dipankar Dandapath
Mr. Mridul Biswas
... .. for the petitioner

Mr. Rajesh Naskar
... .. for the de-facto complainant

Mr. Iqbal Kabir
Mr. Sachit Talukdar
... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about 170 days. It is further submitted the eyewitness did not name the petitioner before Magistrate. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits petitioner was a member of the group who had accosted the victim and fired at him. Thereafter he fled away from the spot.
3. Learned Advocate for the de-facto complainant also opposes the prayer for bail.
4. We have considered the materials on record. Statement of one Rezaul Sk. before Magistrate shows one Rahul Sk. had fired at the victim from behind. On the other hand, statements of witnesses before police show petitioner and others had surrounded the victim and fired at him. Post mortem report notes a circular bullet injury on the occipital part of the scalp in addition to multiple circular injuries

on the shoulder and scalp. This corroborates the statement of Rezaul Sk. before Magistrate that the victim had been fired from behind.

5. In view of the aforesaid inconsistent materials with regard to role of the petitioner in the crime, we are of the opinion further detention of the accused/petitioner is not necessary and he may be enlarged on bail however, subject to strict conditions.
6. Therefore, the accused/petitioner, namely **Raju @ Sabiur Rahaman @ Sabibur Rahaman**, 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 Chief Judicial Magistrate, Kandi, Murshidabad 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 and on further condition that the petitioner, while on bail, shall remain within the jurisdiction of Kandi Police Station and shall report to the Officer-in-charge, Kandi Police Station once in a week until further orders. Prior to his release on bail, he shall deposit his passport before the trial court.
7. 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.
8. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

