

22.04.2024
tkm/ct 28
sl no. 40

C.R.M. (DB) 1241 of 2024

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Malda P.S case no. 211 of 2023 dated 25.4.2023 under sections 302/120B/34 IPC read with sections 25/27 of the Arms Act

Allowed In Re : Wojayer Hussain and petitioner
Mr. Sourav Chatterjee
Mr. S Saha for the petitioner
Mr. Anand Keshari
Mr. D Brahma for the State

1. Petitioner contends co-accused Hajarat Sekh has been enlarged on bail. He has been falsely implicated. He prays for bail.
2. Learned lawyer for the State submits petitioner is the pillion rider who had shot the victim.
3. We have considered the materials on record. Prosecution case is that Hajarat Sekh was plying the motorcycle and petitioner who is the pillion rider. He shot the victim. Conspiracy between these two accused and the husband of the victim has not been established as PWs4 and 5 turned hostile. No ballistic report showing fire arm seized pursuant to the statement of the petitioner was used to commit the crime.
4. In view of the aforesaid gaps in the prosecution case relating the complicity of the petitioner in the crime and since co-accused Hajarat Sekh is on bail, we are inclined to grant bail to the petitioner.
5. Accordingly, the petitioner 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 CJM Malda on condition that the petitioner shall appear before the trial court on every date of hearing 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 being CRM (DB) 1241 of 2024 is disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)