

07.05.2024
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allowed

CRM (DB) No. 1457 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Saktipur Police Station Case No. 195 of 2022 dated 31.10.2022 under Sections 302/34 of the Indian Penal Code and charge-sheet submitted under Sections 302/34 of the Indian Penal Code.

And

In Re : Anisur Mallick @ Anisur Rahaman Mallick petitioner

Mr. Sekhar Kumar Basu, Sr. Adv.
Mr. Amanul Islam
Mr. Sourav Mukherjee
....for the petitioner

Mr. Abhishek Sinha
Mr. Soumadip Saha
.... for the State

1. Learned Counsel for the petitioner submits he is in custody for one year and four months. He further submits recording of prosecution evidence has not commenced. He renews his bail prayer.

2. Learned Counsel for the State opposes the bail prayer and submits petitioner and co-accused had assaulted the victim who succumbed to his injuries.

3. We have considered the materials on record. Petitioner and co-accused had conjointly assaulted the victim. Fatal blow is not attributed to the petitioner. Co-accused being a lady had been enlarged on bail earlier and bail prayer of the petitioner was rejected. Recovery of weapon of offence is attributed to the petitioner but no forensic report with regard to the said weapon is placed before us. Petitioner is in custody for more than a year and no prosecution witness has been examined. There is little

possibility of trial concluding in the near future. There is no chance of abscondence. Accordingly, 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, Murshidabad at Berhampore, 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.)