

10.05.2024.
26.
Ct.No.28
as
(Rejected)

C.R.M. (DB) 1485 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection Kandi P.S. 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.

In the matter of : **1) Mujibor Sk @ Majibor Sk @
Majibar Rahaman;
2) Saju @ Saju Sk. @ Sarjul Sk.**
... Petitioners.

Mr. Dipankar Dandapath,
Mr. Mridul Biswas.

...for the Petitioners.

Mr. Bitasok Banerjee,
Ms. Pallavi Priyadarshee.

...for the State.

Mr. Golam Mostafa,
Mr. Samirul Sardar.

...for the de-facto complainant.

1. Petitioners are in custody for 193 days. They submit the statement of Rejaul Sk. before Magistrate discloses one Rahul Sk had fired from behind. Post mortem report notes a circular bullet injury on the occipital part of the scalp in addition to multiple circular injuries on shoulder and scalp. This corroborates statement of Rejaul Sk that the victim had died due to gunshot of Rahul Sk. Under such circumstances, co-accused viz., Raju @ Sabiur Rahaman @ Sabibur Rahaman and Akbor Sk @ Akbar Sk have been enlarged on bail. Accordingly, they pray for bail.

2. Learned Advocate for the State opposes the bail prayer. He contends petitioners do not stand on the same footing as co-accused who have been granted bail. Father of

petitioner no.2 had been murdered by the deceased. Petitioner No.1 was the son-in-law of the said victim who was murdered by the deceased. They had motive to commit the crime. They were arrested while they were trying to flee from the country.

3. Learned Advocate for the de-facto complainant also opposes the bail prayer.

4. We have considered the materials on record. As per statement of Rejaul Sk. before Magistrate Rahul Sk. had fired the victim from behind. Others surrounded the victim and fired at him. Injuries noted in the post mortem report do not probalilise a case of firing from the front. Hence, Raju @ Sabiur Rahaman @ Sabibur Rahaman and Akbor Sk @ Akbar Sk were enlarged on bail.

5. Under such circumstances, it is true petitioners may not be the accused who had shot the victim dead. However, the victim had murdered the father/father-in-law of the petitioners. They had motive to commit the crime. This incriminating aspect distinguishes the petitioners from co-accused who have been enlarged on bail. That apart, petitioners tried to abscond and flee from the country.

6. Under such circumstances, we are not inclined to enlarge the petitioners on bail at this stage.

7. Accordingly, the prayer for bail of the petitioners is rejected.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)