

55.
Court
No.28

15.07.2024

(Tanmoy)

Rejected

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (DB) 1642 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with Goalpokher P.S. Case No. 530/2023 dated 21.09.2023.
And

In the matter of: - **Md. Gulam Mustafa @ Gulam Mustafa @**
Baba

...petitioner.

Mr. Sekhar Kumar Basu, Ld. Sr. Adv.,
Mr. Soubhik Mitter, Adv ,
Mr. Diptangshu Basu, Adv.,
Mr. Firoz Ahmed, Adv.,
Mr. Sayan Das, Adv.

...for the petitioner.

Mr. Debasish Roy, Ld. PP,
Ms. Snigdha Saha, Adv.

...for the State.

Mr. Mrityunjoy Chakraborty, Adv.,
Mr. M. Nazar Choudhury, Adv.,
Ms. Sanchayita De, Adv.

...for the *de facto* complainant.

Order dictated in open Court by Apurba Sinha Ray, J.

Learned Counsel for the petitioner submits that the petitioner is in custody for about 237 days. The relevant statements of two witnesses, recorded under Section 164 of the Code of Criminal Procedure, 1973, on which the Investigating Agency is relying, have been recorded after 79 days from the incident. There is CCTV footage of some shops but that CCTV footage does not show the complicity of the present petitioner. As the investigation is complete, the petitioner may be granted bail on any condition that this Court may decide, since there is no chance of early conclusion of the trial.

Learned Counsel appearing for the *de facto* complainant has raised objection against the prayer for bail.

Learned Public Prosecutor, appearing for the State, has also raised strong objection against the bail prayer. According to him, the offending weapon has been seized from the sister's house of the present petitioner on the basis of his leading statement recorded under Section 27 of the Indian Evidence Act, and further the bullet which was found in the body of the victim matched with the bullet of the offending weapon which was seized on the basis of the leading statement of the accused. In this regard, he has referred to the ballistic report wherefrom we find merits in the statement of learned Public Prosecutor. The petitioner has several criminal antecedents.

It is true that there is delay in recording the statements of the relevant witnesses under Section 164 Cr.PC, but we have found from the ballistic report, which *prima facie* shows, that the bullet in the body of the victim matched with the bullet of the offending weapon which has been seized on the basis of the leading statement of the present petitioner.

In view of the aforesaid, we are not inclined to allow the petitioner's prayer for bail, at this stage.

The prayer for bail is rejected.

The application being CRM (DB) 1642 of 2024 is accordingly dismissed.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)