

28.5.2024
Ct. No. 8
SL No. 10
AB

C.R.M. (DB) 1660 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with Duttapukur P.S. Case No. 627 of 2022 dated 27.06.2022 under Sections 302/34 of the Indian Penal Code, 1860 and Sections 25/27 of the Arms Act, 1959.

And

In the matter of: Tushar Kanti Majumder @ Tushar Kanti Mazumder @
Bishu Majumder ...petitioner

Mr. Phiroje Edulji

Mr. Liton Maitra

...for the Petitioner

Mr. Arijit Ganguly

Ms. Sima Biswas

....for the State

Mr. Bitosok Banerjee

Ms. Manasi Roy

... for the defacto

Learned counsel appearing for the petitioner submits as follows.

An F.I.R. was registered on 22.6.2022 against the petitioner and others.

On 6.8.2022 the petitioner was arrested. On 19.9.2022 a charge sheet

was submitted against the petitioner and four others while four others

were discharged from the case. On 14.5.2023 a supplementary charge

sheet was submitted. However, till date out of 28 witnesses only one

witness could be examined. There is no eye witness in this case. The

circumstances allegedly appearing against the petitioner are that from

the CDR analysis of the mobile phone it appears that the petitioner was

present in the said area. However, this is the area where he ordinarily

resides. Allegedly, the petitioner and the victim have been dealing with

land matters which led to some dispute. There is a statement of co-

accused, which is inadmissible in evidence after filing of charge sheet.

Although, blood stained shirt was allegedly seized from the house of

the petitioner, the blood was not sent for testing. The petitioner is in

custody for more than two years now. The other co-accused who are also in custody are on worse footing as arms were seized from them.

Learned counsel appearing for the State relies on the case diary and submits that the death occurred due to gunshot injury. The prime piece of evidence available is a torn part of a blood stained shirt that was found from the place of occurrence and the other part of the shirt was seized from the petitioner's house. The supplementary charge sheet contains the forensic report in respect of matching of the two parts.

Learned counsel appearing on behalf of the defacto-complainant submits that the other co-accused are in jail. The petitioner's motorcycle was also seized from the place of occurrence.

It is true that the petitioner is in custody from some time. But, trial has started and already one witness has been examined.

Considering the matching of the two parts of the blood stained shirt, a part of which was seized from the place of occurrence and the other part from the petitioner's house, and in view of the seizure of the petitioner's motorcycle from the place of occurrence, we are not inclined to allow the bail application of the petitioner at this stage.

However, the Trial Court is requested to conclude the trial at the earliest, preferably within a period of one year from the next date of hearing.

With these observations, the bail application is **rejected**.

Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon competition of requisite formalities.

(Uday Kumar, J.)

(Jay Sengupta J.)

