

12.06.2024

Item no.22.

Court No.28.

S. De

(Allowed Partly)

CRM (DB) No. 1696 of 2024

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure filed on 22.05.2024 in connection with English Bazar Police Station Case No. 1683 of 2022 dated 05.11.2022 under Sections 341/326/307/302/34 of the Indian Penal Code.

And

In the matter of : Salam Sk. @ Abdul Salam & Anr.

.....Petitioners.

Mr. Sujoy Sarkar,
Mr. Mushannat Alam,
Mr. Rahul Chachan,
Ms. Susmita Ghorai,for the Petitioners.

Mr. Joydeep Biswas,
Mr. D. Dutta,for the State.

The petitioners are two out of five accused persons. They say that they have no major role to play in the free fight between two groups. They did not cause any bodily harm to anybody. Two of the five accused persons have been granted bail by this Court by orders dated November 30, 2023 and December 21, 2023 passed in CRM (DB) 4438 of 2023 and CRM (DB) 4694 of 2023. They claim parity with the said two persons who have been granted bail.

Learned advocate for the State opposes the prayer for bail. He points out from the statements of witnesses recorded under Section 164 of the Code of Criminal Procedure that the petitioner no.1 has been clearly named as the assailant. There is no such

mention of petitioner no.2 in the statements as committing any overt act. Charge could not be framed till now because the fifth accused person is absconding.

Having considered the facts and circumstances of the case, the material on record, prima facie incriminating evidence against the petitioner no.1, (Salam Sk @ Abdul Salam), we are not inclined to allow the prayer for bail as far as he is concerned. However, in so far as the petitioner no. 2 (Hablu Sk. @ Rahim Sk.) is concerned, we do not find, prima facie any such material in the case diary as would justify his further detention.

Accordingly, we direct that the petitioner no.2, namely **Hablu Sk @ Rahim Sk.** 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, Malda and on further conditions that he shall remain within the jurisdiction of the concerned police station.

The 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 and/or commit any cognizable offence in any manner whatsoever.

In the event the petitioner fails to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed partly.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)