

38. 10.07.2024
Court
No.28 (Tanmoy)

Rejected

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (DB) 1991 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with Hariharpara P.S. Case No. 529/2023 dated 23.11.2023.
And

In the matter of: - **Mojibour Khan @ Patal @ Potol @ Majibar Khan**

Mr. Arindam Jana, Adv.,
Mr. Asraf Mondal, Adv.
...for the petitioner.

Mr. Anand Kesari, Adv.,
Ms. Suchismita Dutta, Adv.
...for the State.

Mr. Tanmay Basu, Adv.,
Ms. Aparajita Mitra, Adv.,
Mr. Manoj Adak, Adv.
...for the *de facto* complainant.

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

Learned Counsel for the petitioner submits the petitioner has been languishing in custody for about 222 days. He has no role in committing the alleged offence. Investigation is complete and as such, he may be enlarged on bail on any condition that this Court may decide.

Learned Counsel for the petitioner also submits that the petitioner is standing on the same footing as the other accused person, namely, Sarfaraj Khan, who was granted bail by this Court.

Learned Counsel appearing for the State opposes the bail prayer. According to him, the petitioner is not standing on the

same footing as the accused Sarfaraj Khan. Statement of the *de facto* complainant, recorded under Section 164 of the Code of Criminal Procedure, 1973, specifically names the present petitioner and his role in the alleged offence. Further, there are several incriminating materials against the petitioner. Moreover, another principal accused, namely, Suraj Khan, is still absconding and if the petitioner is granted bail, the prosecution may suffer prejudice.

We have gone through the material on record and perused the statement of the *de facto* complainant recorded under Section 164 of the Code of Criminal Procedure, 1973. We have also perused the order dated May 9, 2024, passed by a co-ordinate Bench in CRM (DB) 1462 of 2024, by which one Sarfaraj Khan @ Sujan Khan was granted bail by this Court. We find that the present petitioner is one of the principal accused and as such, 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) 1991 of 2024 is accordingly dismissed.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)