

20.
Court
No.28

14.08.2024

(Tanmoy)

Allowed

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (DB) 2056 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 / Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with **Kandi** Police Station Case No. **632/2023**, dated **21.10.2023** under Sections **302/34/120B** of the Indian Penal Code read with Sections **25/27** of the Arms Act, 1959. Charge-sheet No.06/2024 under Sections 302/120B/34 of the Indian Penal Code.

And

In the matter of: - **Sarjul Sk @ Saju & Anr.**

...petitioners.

Mr. Sekhar Kumar Basu, Ld. Sr. Adv.
Mr. Abir Ranjan Neogi
Mr. Karan Bapuli

...for the petitioners.

Ms. Zareen Nasima Khan
Ms. Puja Goswami

...for the State.

Mr. Golam Mastafa
Mr. S. Sardar

...for the *de facto* complainant.

Dictated by Partha Sarathi Sen, J.

1. At the time of hearing learned Advocate for the accused petitioners draws our attention to the order dated May 14, 2024, whereby and whereunder some co-accused persons have been enlarged on bail by a co-ordinate Bench of this Court. It is submitted that the present accused petitioners are similarly circumstanced with the co-accused persons who have been enlarged on bail on May 14, 2024.

2. While opposing the prayer for bail, learned Advocate for the State, submits that previously the bail prayer of the present accused petitioners had been rejected by another co-ordinate Bench of this Court on May 10, 2024, which has been

annexed at page 16 of the instant bail application. It is further submitted on behalf of the State that in absence of any supervening circumstances the instant bail application may be rejected.

3. We have considered the entire material placed before us including the orders of the co-ordinate Benches as passed on May 10, 2024 and May 14, 2024. We have perused from the order dated May 10, 2024 that one Rahul Sk is the principal assailant who shot the bullet. It further appears that the co-ordinate Bench duly considered such fact while disposing of the bail application of the other co-accused person on April 19, 2024. It appears to this Court that since the present accused petitioners are not the principal assailants and since the footings of the present two accused petitioners are almost same with the co-accused person who has already been enlarged on bail on April 19, 2024, hence, on the ground of parity, we are inclined to allow the petitioners' prayer for bail.

4. Accordingly, we direct that the petitioners, namely, **1. Sarjul Sk @ Saju 2. Mujibor Sk @ Majibor Sk @ Majibar Sk** shall be released on bail upon furnishing a bond of Rs.10,000/- (Ten Thousand) each with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Kandi, Murshidabad, subject to condition that the petitioners shall appear before the learned Trial Court on each and every date of substantive hearing subject to the provisions of Section 317 of the Code of Criminal Procedure, 1973, and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever and on

further condition that the petitioners, while on bail, shall remain within the jurisdiction of Kandi Police Station and shall report to the Officer-in-Charge, Kandi Police Station once in a week until further orders. Petitioners are also directed to deposit their passports, if there be any, before the Trial Court within 15 days of their release from the Correctional Home.

5. In the event the petitioners fail to adhere to any of the conditions stipulated above without any justifiable cause, the learned Trial Court shall be at liberty to cancel their bail in accordance with law without further reference to this Court.

6. The application for bail being CRM (DB) 2056 of 2024 is accordingly disposed of.

7. Criminal Section is directed to supply urgent photostat certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

(Arijit Banerjee, J.)

(Partha Sarathi Sen, J.)