

C.R.M. (DB) 2406 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Nowda** P.S. Case No. **30** of **2023** dated **22.01.2023** under Sections 302/201/120B of the Indian Penal Code.

And

In the matter of: Saharul Sk.

Mr. Soumya Basu Roy Chowdhuri

Mr. Anisur Rahman

...for the Petitioner

Ms. Anasuya Sinha

Ms. S. Saha

....for the State

1. Petitioner is in custody for one year and six months. He submits that vital witnesses have failed to identify the petitioner in course of trial. He prays for bail.
2. Learned lawyer for the State opposes the prayer for bail.
3. Petitioner was last seen with the victim and PAN Card of the victim was recovered from his possession.
4. We have considered the materials on record. Some of the witnesses to the last seen theory have not identified to the petitioner. Impact of their failure to identify the petitioner with the deceased must be taken into consideration while assessing other evidence on record. Case is based on circumstantial evidence and petitioner is in custody for a considerable period of time.
5. Under such circumstances, we are inclined to grant bail to the petitioner.
6. Accordingly, the petitioner 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 Additional Sessions Judge, 1st Track Court, Murshidabad at Berhampore subject to the condition that the petitioner shall appear before the trial court on each and every date of hearing until further orders and

shall not intimidate witnesses and/or tamper with evidence in any manner whatsoever.

7. In the event petitioner fails to appear before the Trial Court without any justifiable cause, the Trial Court shall be at liberty to cancel his bail without any further reference to this Court.
8. The application for bail is, thus, allowed and disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)