

47. 12.08.2024
Court
No.6 (Tanmoy)

Allowed

CRM (DB) 2522 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 **Barasat** Police Station Case No. **910/2023**, dated **17.12.2023** under Sections **341/326/307/302/34** of the Indian Penal Code.

And

In the matter of: - **Prabal Kumar Pradhan**

...petitioner.

Mr. Soubhik Mitter
Mr. Litan Maitra
Ms. Rajnandini Das
Mr. Chitrak Biswas

...for the petitioner.

Ms. Minoti Gomes
Ms. Sana Naaz

...for the State.

1. Learned lawyer for the petitioner submits petitioner is in custody for six months. He contends he has been falsely implicated out of suspicion. He prays for bail.
2. Learned lawyer for the State opposes the bail prayer and submits petitioner had illicit relationship with the wife of the deceased. The deceased made oral dying declaration wherein he implicated the petitioner in the crime.
3. We have considered the materials on record. Victim was recovered by police and taken to hospital. In the hospital victim implicated one Gopal Sarkar as his assailant. He did not state that Gopal Sarkar had acted at the behest of the petitioner. However, two witnesses namely, Nabin Nath and Palash Patra claimed they saw the victim lying on the street and he had made an oral dying declaration wherein he claimed he was assaulted by one Bijoy Roy and one Gopal

Sarkar at the behest of the petitioner. These witnesses also stated that they had informed Barasat police station and police recovered the victim. However, FIR registered at Barasat police station shows unknown persons had assaulted the victim. Credibility of these two witnesses with regard to making of oral dying declaration must be tested on the anvil of the aforesaid circumstance and the dying declaration recorded in the hospital.

4. Keeping in mind the nature of evidence adduced against the petitioner and as investigation is complete, we are inclined to enlarge the petitioner on bail.
5. Accordingly, we direct the petitioner, namely, **Prabal Kumar Pradhan** 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, North 24 Parganas at Barasat, subject to 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.
6. 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.
7. The application for bail is, thus, allowed and disposed of.

(Apurba Sinha Ray, J.)

(Joymalya Bagchi, J.)