

CRM (DB) 2632 of 2024

In re: An Application for Bail under Section 439 of the Code of Criminal Procedure as amended under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with **Hogalberia Police Station Case No. 79 of 2024** dated **13.04.2024**, under **Sections 448/325/307/34** of the Indian Penal Code adding Section 302 of the Indian Penal Code.

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In the matter of : Hosen Mondal.

.... petitioner.

Mr. Jaydeep Biswas,
Mr. Asraf Mondal,
Mr. Kaushik Ghosh, ... For the petitioner.

Mr. Rudradipta Nandy, Ld. APP,
Ms. S. Saha, ... For the State.

Mr. Amanul Islam,
Mr. Sourav Mukherjee, ...for the de facto complainant.

Order dictated by Apurba Sinha Ray, J.

1. The petitioner says that a dispute arose between the two families regarding a goat. A goat of one of the families entered into the compound of another family and ate up flower plants. This led to a dispute which escalated into a scuffle and there was free-fight between the members of two families.
2. Learned counsel for the petitioner submits that the petitioner is in custody for more than 7 months and from the material-on-record it is found that this is purely a case under Section 304 IPC and not under Section 302 IPC since there is no pre-meditated plan to commit the alleged murder. As the investigation is complete, he may be enlarged on bail on any condition.

3. Learned counsel for the State opposes the prayer for bail. According to him, there are sufficient incriminating materials against the present petitioner. The statements of witnesses recorded under Section 164 Cr.P.C. show how the brutal murder was committed at the instance of the present petitioner. If he is enlarged on bail, the prosecution may suffer.
4. We have gone through the material-on-record and we find that the investigation is complete. Prima facie, the petitioner appears to have an arguable case. Further, we see that no useful purpose would be served by further detaining the petitioner in judicial custody.
5. Accordingly, we direct that the petitioner, namely, **Hosen Mondal** 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 Chief Judicial Magistrate, Nadia at Tehatta and on further conditions that he shall not enter into the jurisdiction of Hogalberia Police Station, district Nadia, except for the purpose of attending Court proceedings and shall also furnish the address where he will be residing to the Officer-in-Charge in whose jurisdiction he will be residing and shall also appear before such Officer-in-Charge once in every week until further orders.
6. 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 in any manner whatsoever.

7. 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.
8. The application for bail is, accordingly, allowed.
9. 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.)