

C.R.M. (DB) 2980 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure corresponding to Section 483 of the Bharatiya Nagarik Suraksha Sanhita 2023 in connection with **Chakdah P.S. Case No. 296 of 2024 dated March 16, 2024** under **Sections 302/120B/34** of the Indian Penal Code.

And

In the matter of: **Samir Sarkar**.

Mr. Shibaji Kumar Das, ...for the Petitioner.

Mr. Bibaswan Bhattacharyya,
Ms. Afreen Begum,for the State.

Mr. Niladri Sekhar Ghosh,
Mr. Goutam Sardar,
Mr. Goutam Malik, ...for the de facto complainant.

1. Petitioner is in custody for 180 days. He submits he is not the principal accused. He prays for bail.
2. Learned lawyer for the State submits petitioner had fled from the spot along with the principal accused.
3. We have considered the materials on record. Statements of witnesses disclosed one Premchand @ Katla assaulted the victim. Witnesses also stated, petitioner ran away with the said Premchand. However, none of the witnesses attribute assault to the petitioner. Neither do they say petitioner was armed. These circumstances are to be taken into consideration to assess whether petitioner shared common intention with co-accused Premchand during trial. Keeping in mind the extent of complicity of the petitioner in the crime, period of detention suffered by him and investigation is complete, we are inclined to enlarge the petitioner on bail.
4. Accordingly, we direct the petitioner viz. **Samir Sarkar** 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, Kalyani, Nadia 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.

5. 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.
6. The application for bail is, thus, allowed and disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)