

43.
Court
No.29

03.12.2024

(Tanmoy)

Allowed

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (DB) 3050 of 2024

In Re: - An application for bail under 439 of the Code of Criminal Procedure, 1973 / Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, arising out of **Chandannagore** Police Station Case No. **92/2024** dated **11.6.2024** under Sections **302/34** of the Indian Penal Code, 1860.

And

In the matter of: - **Prasanta Roy @ Gouranga & Anr.**

Mr. Bitasok Banerjee
Mr. Abdus Salam

...petitioners.

Mr. Suman De
Ms. Trina Mitra

...for the petitioners.

...for the State.

Mr. Arijeet Bhattacharjee

...for the *de facto* complainant.

Dictated by Apurba Sinha Ray, J.

1. Learned Counsel for the petitioners submits that the instant case has been initiated under Section 302 of the Indian Penal Code. However, the factual aspects reveal that this should be a case of offence punishable under Section 304 of the Indian Penal Code. However, the petitioners are languishing in custody for about 171 days and they did not commit the offence with pre-meditation or pre-planned manner. As the investigation is complete, they may be enlarged on bail on any condition that this Court may direct.
2. Learned Counsel for the State and the *de facto* complainant raise strong objection against the prayer for bail. According to

the *de facto* complainant, the neighbour of the present petitioners suffered an accident caused by the driver of a vehicle. The passenger and the driver took the injured to the hospital and subsequently the present petitioners along with others attacked them and as a result of which the driver of the said vehicle became unconscious and subsequently he succumbed to his injury. If the present petitioners are granted bail, then nobody would want to become a good Samaritan in motor vehicular accident cases.

3. Learned Advocate for the State points out that there are several eyewitnesses and their statements were recorded under Section 164 of the Code of Criminal Procedure, 1973, before the concerned Judicial Magistrate.
4. We have considered the rival contentions of the parties and the materials on record. It *prima facie* appears that the offence, alleged to have been committed, was done not in a pre-meditated and pre-planned manner. In a sudden fit of rage, the incident might have occurred. As the investigation is complete, we are inclined to allow the prayer for bail of the present petitioners.
5. Accordingly, we direct that the petitioners, namely, **1. Prasanta Roy @ Gouranga, 2. Tarun Roy** shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees 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, Chandannagar, Hooghly, subject to condition that the petitioners shall

appear before the Trial Court on each and every date of substantive hearing subject to the provisions of Section 317 of the Code of Criminal Procedure, 1973 / Section 355 of Bharatiya Nagarik Suraksha Sanhita, 2023, and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

6. In the event the petitioners fail to adhere to any of the conditions stipulated above without any justifiable cause, the Trial Court shall be at liberty to cancel their bail in accordance with law without further reference to this Court.
7. The application for bail being CRM (DB) 3050 of 2024 is accordingly disposed of.
8. Criminal Section is directed to supply urgent photostat certified copies of this order to the parties, if applied for, upon compliance with all requisite formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)