

18.01.2024.
29.
Ct.No.28.
as
(Allowed)

C.R.M. (DB) 4839 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kaliachak P.S. Case No.688 of 2022 dated 30.06.2022 under Sections 363/365/364A/120B/34 of the Indian Penal Code.

In the matter of : **Md. Joharul Khan.**

.... Petitioner.

Md. Wasim Akram.

...for the Petitioner.

Mr. Debasish Roy, Id. P.P.,

Mr. Rudradipta Nandy, Id. A.P.P..

...for the State.

1. Petitioner submits he is in custody for 518 days. It is contended the prosecution claims he along with others was with the victim at Suti Police Station but he was not detained at the said police station. This improbabilises the prosecution case. Co-accused are on bail. Accordingly, he renews his bail prayer.

2. Learned Advocate for the State opposes the bail prayer. He contends petitioner was identified in T. I. Parade and his prayer for bail was rejected earlier on merits.

3. We have considered the materials on record. There are certain incongruities in the prosecution case. Co-accused have been enlarged on bail. Petitioner stands on the same footing with the said co-accused.

4. Under such circumstances, we are inclined to grant bail to the petitioner also.

6. Accordingly, the petitioner viz., **Md. Joharul Khan** 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, Malda subject to condition that he shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

7. In the event the petitioner fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

8. This application for bail is, thus, disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)