

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

03.04.2024
Court No.01
rpan /40

CRM (DB) 136 of 2024

In Re:- An application for bail under section 439 of the
Code of Criminal Procedure;

And

In Re: Bikash Roy & Another

- Petitioners.

Mr. Joydeep Kanta Bhowmik,
Mr. Sayantan Bhowmik,
Mr. Tushar Debnath,
Mr. Shubham Kumar,
Ms. Rikta Sarkar

.... for the Petitioners.

Mr. Abhijit Sarkar,
Mr. Aniruddha Biswas
...for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred in connection with Dhupguri Police Station Case No.562 of 2023 dated 17.11.2023 under Sections 341/325/307/34 of the Indian Penal Code and adding Section 302 of the Indian Penal Code.

Mr. Bhowmik, learned advocate appearing for the petitioners submits that the complaint was lodged about 21 days after the alleged incident. The motor cycle initially met with an accident which led to the alleged incident.

Drawing our attention to the order passed in the petitioners' earlier bail application on 30th January, 2024, Mr.

Bhowmik submits that liberty was granted by the Court to the petitioners' therein to renew their prayer for bail after the chargesheet is filed. The chargesheet thereafter was filed. From the records it would be evident that no specific overt act has been attributed to the petitioners herein. They have already suffered incarceration for about 75 days and as such, their further detention may not be necessary, more so when there is no reasonable apprehension that they would flee from justice and would tamper with the evidence.

The learned advocate appearing for the State, however, opposes the petitioners' prayer and submits that there are strong incriminating materials on record against the petitioners. In support of such contention, he has drawn our attention to the statement of the pillion rider, as recorded under Section 164 of the Code of Criminal Procedure as well as the *post mortem* report.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

Prima facie, from the statement of the pillion rider it appears that the petitioners herein and others were directly involved in the alleged offence. Considering the gravity of the offence, its ramifications and the extent of complicity of the petitioners in the alleged offence, we are not inclined to exercise discretion in favour of them at this stage.

However, we have been informed that there are 16 witnesses and as such, we would request the learned trial court to conclude the trial as expeditiously as possible without granting any unnecessary adjournment to either of the parties.

The application for bail, being CRM (DB) 136 of 2024, is disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Biswaroop Chowdhury, J.) (Tapabrata Chakraborty, J.)