

22.05.2025

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jb.

jdt.

Allowed

C.R.M. (DB) 838 of 2025

In Re : An Application under Section 439 of the Code of Criminal Procedure/under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed in connection with Canning Police Station Case No. 494 of 2021 dated 25.11.2021 under Sections 302/120B/201/212 of the Indian Penal Code and Sections 27/35 of the Arms Act.

And

In Re : Rafique Sk. @ Rafik Sk.

Mr. Joy Chakraborty

Mr. Sandip Dinda

... For the Petitioner.

Mr. Joydeep Biswas

Mr. Samrat Nandy

... For the State.

Mr. Sabir Ahmed

Tasnim Ahmed

Mr. Dhiman Banerjee

Quazi Ezaz Ahmed

... For the *Defacto* complainant

The petitioner is in custody for more than 2 years and prays for bail.

Learned counsel for the petitioner submits that the petitioner stands on the same footing as some of the co-accused who have been granted bail earlier.

Learned counsels for the State and the *defacto* complainant oppose the prayer and submit that the petitioner is one of the principal assailants and master mind of the offence and does not stand on the same footing as the other co-accused persons.

I have considered the material on record. The petitioner was granted bail on parity earlier which was

assailed by the State before the Hon'ble Supreme Court. The Hon'ble Supreme Court cancelled the bail of the petitioner on two fold grounds:-

First, no reason was assigned as to why parity would apply and second, seven cases were pending against the petitioner. The bail prayer was again considered by this Court and turned down on 8th August, 2023. The petitioner renews his prayer.

It appears that the co-accused from whom fire arms have been recovered are on bail. The trial is at its fag end and it appears from the evidence that the co-accused were also present at the spot and involved in the alleged incident along with the petitioner. The co-accused having criminal antecedents have also been granted bail earlier.

The petitioner appears to be similarly circumstanced with the co-accused on bail and deserves the same benefit.

Accordingly, the prayer for bail is allowed.

The petitioner namely Rafique Sk. Rafik Sk. shall be released on bail upon furnishing bond of Rs.10,000/- (Rupees Ten Thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Alipore, South 24 Parganas subject to condition that he shall remain outside the jurisdiction of Canning police station and shall furnish the address where he shall presently reside before the learned trial Court, the investigating officer and the concerned officer in charge of the police station under whose

jurisdiction he shall presently reside. He shall appear before the learned trial Court on every date of hearing fixed by the learned trial Court and shall not tamper with evidence or intimidate witnesses in any manner whatsoever.

In the event the petitioner fails to adhere to any of the conditions stated hereinabove, the learned trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

The application for bail is disposed of.

Case diary be returned.

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

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)