

05.05.2025

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jb.

jdt.

Allowed

C.R.M. (M) 282 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 Hariharpara Police Station Case No. 529 of 2023 dated 23.11.2023 under Sections 302/34 of the Indian Penal Code with the added Sections 201/120B of the Indian Penal Code.

And

In Re : Nusiyat Sk @ Nasiyat Sk @ Nasiyat Sekh & Anr.

Mr. Sekar Kr. Basu
Mr. Antarikhya Basu
Ms. Madhumita Basak

... For the Petitioners.

Mr. Avishek Sinha
Ms. Rajashree Tah

... For the State.

Ms. Minoti Gomes
Jeshan Iqbal Hossain
Ms. Shanta Sarkar

... For the *Defacto* complainant

The petitioners seek parity with co-accused Majibar Khan @ Potol @ Patal @ Mojiboar Khan who was granted bail by this Court on 13th November, 2024.

Learned counsel for the State concedes to the said submission in so far as the 2nd petitioner is concerned.

Learned counsel for the *defacto* complainant submits that after the co-accused were released on bail they have been threatening the *defacto* complainant with dire consequence and creating pressure on her to withdraw the complaint.

The 2nd petitioner being similarly circumstanced with the co-accused who is on bail, he is entitled to the same benefit.

With regard to the first petitioner who appears to be Upa Pradhan of the village, learned counsels for the State and the *defacto* complainant oppose the prayer for bail and submit that

the first petitioner being the Upa Pradhan called the victim for settling the issue of the victim's son allegedly fleeing away with the daughter of a co-villager.

I have considered the material on record.

The statement of the victim's wife recorded under Section 164 of the Code of Criminal Procedure demonstrates that the victim was taken in a motor cycle by one Suraj and did not return home thereafter. The allegation against the first petitioner is that he along with others visited the house of the *defacto* complainant at about 11 pm. and enquired about the boy and the girl who were missing.

Whether the material on record connects the first petitioner to the murder shall be assessed at the appropriate stage of trial.

Both the petitioners are in custody for about 182 days. Trial is yet to commence.

In view of the above, this Court is inclined to hold that further detention of the petitioners is not required and they may be granted bail.

Accordingly, the prayer for bail is allowed.

The petitioners namely Nusiyat Sk @ Nasiyat Sk @ Nasiyat Sekh and Jubbar Khan @ Jabbar Khan shall be released on bail upon furnishing bond of Rs.10,000/- (Rupees Ten Thousand only) each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Berhampore, Murshidabad subject to condition that they shall remain outside the jurisdiction of Hariharpara police station and shall furnish the address where they shall presently reside before the learned trial Court, the investigating officer and the concerned officer in charge of the police station under whose jurisdiction they shall presently reside. The petitioners shall appear before the

learned trial Court on every date of hearing fixed by the learned trial Court. They shall not tamper with evidence or intimidate witnesses in any manner whatsoever.

In the event the petitioners fail to adhere to any of the conditions stated hereinabove, the learned trial Court shall be at liberty to cancel their 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.)