

16.06.2025

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jb.

jdt.

Allowed

C.R.M. (M) 415 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 Sankrail Police Station Case No. 1402 of 2021 dated 23.11.2021 under Sections 302/120B/34 of the Indian Penal Code read with Sections 25(1B)(a)/27(3)/35 of the Arms Act.

And

In Re : Md. Nausad @ Sk Nowsad

Mr. Sandip Chakraborty

Mr. Kaustav Das

... For the Petitioner.

Mr. Aniket Mitra

Ms. Jonaki Saha

... For the State

Mr. Ayan Bhattacharjee

Mr. Soumya Basu Roy Chowdhury

Mr. Saurav Kr. Mishra

Mr. R. Santra

... For the Defacto Complainant

The petitioner is in custody for more than 3 years. Learned counsel for the petitioner submits that the petitioner has not been named in the FIR. His name has transpired from the statement of eye witnesses in course of investigation. Vulnerable witnesses have been examined.

Learned counsels for the State and the defacto complainant oppose the prayer. It is submitted that an application under Section 311 of the Code of Criminal Procedure was filed by the prosecution subsequently seeking examination of 6 other witness. Their examination is yet to be held.

I have considered the material on record.

The bail prayer of the petitioner was turned down by this Court on 9th April, 2024 on the ground of his involvement in the murder and also as vital witnesses were not examined. The trial Court was requested to examine two vital witnesses at the earliest. The application under Section 311 of the Code of Criminal Procedure was filed by the prosecution at a belated stage, in fact, after bail prayer of the petitioner was turned down by this Court. This Court is informed that the application has been allowed on 13th June, 2025.

The petitioner was not named in the FIR. His name transpired in course of investigation. Victim succumbed to a single gunshot injury. The petitioner is not the principal assailant and appears to be a member of the gang who attacked the victim. No recovery has been made from the petitioner. The two vital witnesses have been examined in compliance with the direction of this Court.

Considering the material on record as well as extent of complicity of the petitioner in the alleged crime, this Court is inclined to hold that further detention of the petitioner is not required. He shall be granted bail subject to stringent conditions.

Accordingly, the prayer for bail is allowed.

The petitioner namely Md. Nausad @ Sk Nowsad 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, Howrah subject to conditions that he shall remain outside the jurisdiction of Howrah district 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. He 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.)