

08. 21.02.2025
Court
No.26 (Pritam)
(Rejected)

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (DB) 4200 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 / Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, arising out of **Canning** Police Station Case No.**494/2021** dated **21.11.2021** under Sections **302/120B/201/212** of the IPC, 1860 & Sections 27/35 of the Arms Act.

And

In the matter of: - **Rahamat Gazi.**

.....petitioner.

Mr. Avik Ghatak,
Mr. Sandip Dutta,
Mr. Akash Ghosh

...for the petitioner.

Ms. Amita Gaur, Sr. Adv.,
Ms. Dabjani Sahu

....for the State.

1. Petitioner prays for bail on the ground of parity with the co-accused, namely, *Saiful Lashar* who was enlarged on bail by the Supreme Court as well as two other co-accused who were granted bail by a co-ordinate bench.
2. Learned advocate appearing for the State submits that, the petitioner does not stand with the same footing as that of *Saiful Lashar* or the two other co-accused, who were enlarged on bail by a co-ordinate bench. In fact, the petitioner before us stands on the same footing as that of *Rafique Sk.*, whose bail was cancelled by the Hon'ble Supreme Court.

3. In the present police case, *Saiful Lashar* was granted bail by the Hon'ble Supreme Court in Criminal Appeal No.4505 of 2024 after recording the finding that on perusal of the finding of the prosecution witnesses and considering the role ascribed to such *Saiful* as also that fact that there was no antecedent so far as *Saiful* was concerned, he was enlarged on bail.
4. The co-ordinate bench in CRM (DB) 4124 of 2024 and in CRM (DB) 4125 of 2024 granted interim bail to the co-accused.
5. So far as interim bails are concerned since, they are yet to be confirmed, the possibility of such bail being cancelled in final hearing of the applications for trial exists.
6. So far as *Saiful* who was enlarged on bail by the Hon'ble Supreme Court is concerned, we find that three aspects were taken into consideration in respect of such co-accused, one of them being criminal antecedents.
7. So far as the petitioner before us is concerned, he is an accused in five criminal cases involving grievous hurt as well as Arms Act, amongst others.
8. In respect of another co-accused namely, *Rafique Sk.*, the Hon'ble Supreme Court cancelled the bail granted in favour of such person by the High Court on the finding that there are criminal antecedents so far as that person is concerned.
9. As noted above, there are at least five criminal antecedents as against the petitioner.

10. In such circumstances, we are unable to arrive at the conclusion that the petitioner before us stands on the same footing as that of *Saiful*.
11. Considering gravity of the offence and the involvement of the petitioner in other incident, we are not inclined to grant bail to the petitioner. In the present police case, petitioner stands implicated in murder.
12. Trail is in progress. In fact, it is at the fag end. Cross-examination of the Investigating Officer is in progress at the trial.
13. The prayer for bail is, thus, **rejected**.
14. CRM (DB) 4200 of 2024 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)