

48.
19-02-2025
(ct. no.29)
S. De
(Partly Allowed)

CRM (DB) 100 of 2025

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure as amended under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with **Duttapukur Police Station Case No. 338** of **2020** dated **03.05.2020** under **Sections 341/326/323/307/34/302** of the Indian Penal Code.

And

In the matter of : Sirajul Haque @ Islam & Anr.

.....Petitioners.

Mr. Saryati Datta,
Mr. Chitrak Biswas,for the Petitioners.

Mr. Avishek Sinha,
Ms. Suchismita Dutta,for the State.

Mr. Satyam Mukherjee,
Ms. Sayani Ahmed, ...for the de facto complainant.

Dictated by Arijit Banerjee, J.

1. The petitioners renew their prayer for bail which was rejected earlier on several occasions. They say that they are in custody for over 4 years and 9 months. Trial is yet to conclude. Only 12 out of 19 chargesheet named witnesses have been examined.
2. Learned State counsel tells us that 12 witnesses, who have been examined, all implicate the petitioner no.1 as the prime assailant who dealt the fatal blow to the victim. The presence of the petitioner no.2 at the place of occurrence has been mentioned by the witnesses but no specific overt act has been ascribed to him.
3. In view of the overwhelming evidence against the petitioner no.1, we are not inclined to allow his prayer for bail. If

convicted, he will have to undergo mandatory life imprisonment.

4. However, in so far as the petitioner no.2 is concerned, considering his role in the alleged offence and the period of detention that he has already suffered, we are inclined to allow his prayer for bail.
5. Accordingly, this bail petition is **dismissed** in so far as the **petitioner no.1** being **Sirajul Haque @ Islam** is concerned. However, the bail petition is **allowed** in so far as the **petitioner no.2** being **Hafijul Haque @ Islam** is concerned.
6. Accordingly, we direct that the **petitioner no.2**, namely, **Hafijul Haque @ Islam** shall be released on bail upon furnishing a bond of Rs.10,000/- , with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Barasat, subject to the condition that he shall appear before the trial Court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever and on further condition that the petitioner no.2, while on bail, shall remain within the jurisdiction of the Duttapukur Police Station and shall meet the Officer-in-Charge of the Duttapukur police station once in a fortnight until further orders.
7. In the event the petitioner no.2 fails to adhere to any of the conditions stipulated above without justifiable cause, the trial

court shall be at liberty to cancel the petitioner no.2's bail in accordance with law without further reference to this court.

8. The application for bail is, accordingly, allowed in so far as the petitioner no.2 is concerned.

9. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)