

08.04.2025
Court No. 4
(A.Bhar)

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

CRM (DB) 142 of 2025

In Re: An Application for Bail under Section 439 of the
Code of Criminal Procedure/Section 483 of the Bharatiya
Nagarik Suraksha Sanhita.

And
In the matter of: Aminul Islam
.....Petitioner.

Mr. Jaydeep Kanta Bhowmik,
Mr. S. Bhowmik,
Mr. S. Kumar,

.....For the petitioner

Mr. Aditi Shankar Chakraborty,
Mr. K.Nag,for the State

This is an application under Section 439 CrPC/Section 483
BNSS filed by the petitioner who is in custody in connection with
Maynaguri Police Station Case No. 485/2023 dated 22-12-2023
under Sections 302/34 of the Indian Penal Code and pending for
trial before Learned Additional Sessions Judge 4th Court at
Jalpaiguri being Sessions case No. 95/2024.

Herd Learned Advocate for the petitioner and Learned
Advocate for the opposite party State of West Bengal, perused the
materials in the case diary.

Learned Advocate for the petitioner submits that his client is
falsely implicated in the instant case and is in custody for one year
three months. Learned Advocate further submits that the case is
based on circumstantial evidence and involves examination of 22
witnesses which will take considerable time. Learned Advocate

submits that at preset only one witness is examined and there is no possibility of the trial being concluded at an early date.

Learned Advocate for the opposite party State of West Bengal objects the grant of bail. Learned Advocate draws attention to statements made by the witnesses under Section 161 CrPC and 164 CrPC and the post mortem report. Learned Advocate submits that the offending weapon was recovered on the basis of the statement of the accused persons thus there is involvement. It is also submitted that release of the petitioner may result in the tampering of the witnesses.

Upon hearing the Learned Advocates and upon considering the materials in the case diary it appears that the witness Sujit Sarkar in whose house the victim went after alleged assault stated in his statement under Section 161 CrPC that the victim on 21/12/2023 went to his house with bleeding injury on his head, immediately the brother of the victim was informed and on his arrival the victim was taken to Mayanaguri hospital. In the statement under Section 164 CrPC which was recorded after 11 days this witness stated that on 21/12/2024 the victim came to his house with bleeding injury on his head Immediately the brother of the victim was informed and on his arrival the victim was taken to Maynaguri hospital. The victim on being asked as to who caused the assault only stated that he was assaulted but did not state as to who caused the assault. Thus from this statement it will appear that the victim himself came and knocked the door of the witness and was not brought by some other persons in injured condition. Moreover the victim did not state as to who caused the assault.

Witness Bapi Roy in his statement under Section 164 CrPC did not mention the name of the petitioner. Witness Kamal Mondal also did not mention the name of the petitioner specifically. However witness Mahesh Chandra Roy mentioned that the victim was taken from his home by accused Naresh Roy and Sukru. Thereafter he mentioned that he obtained information at 9.40 p.m. that the victim was murdered by Naresh Roy and Sukru.

Thus apart from mentioning that the victim was taken from his home by the accused persons which is the F.I.R. case no other incident is witnessed by this person.

Although it is submitted by Learned Advocate for the state that the offending weapon is recovered on the statement of the accused person but the fact that the offending weapon P.M. blood of deceased Viseera of deceased which were sent to RFSL with certain queries although one year has passed, report not obtained.

In the facts and circumstances as discussed above although it would not be reasonable to make further observation with regard to the merits of the case but it has to be decided as to whether the petitioner should be granted bail.

It has been observed in different judicial decisions by the Hon'ble Supreme Court and different High Courts that while deciding the applications for bail the factors that are to be considered are nature and seriousness of the offence the evidences appearing on the record the severity of the punishment in the event of conviction, the likelihood of abscondence and tampering with evidence, or apprehension of the offence being repeated.

In this case although the offence of which the petitioner is charged is a heinous offence but considering the materials in the case diary, period of detention, which is one year three months, the facts that the case involves examination of 22 witnesses and there is likelihood of delay in completion of trial this Court is of the view that as there is no reasonable apprehension of abscondence or tampering with evidence in the interest of justice the petitioner should be granted bail. Thus I allow the prayer for bail mode by the petitioner.

Hence the petitioner be released on bail with 2 sureties of Rs. 5,000/- each one of which must be local subject to satisfaction of the Learned Trial Court. The petitioner upon being released shall meet the officer in charge of the concerned police station twice a week, and shall not enter into the village where the defacto complainant resides, and shall not meet or contact the persons acquainted with the facts of the case, and shall give the mobile number to the police station which he is using and shall attend Court on all dates fixed unless there are very exceptional circumstance. In the event there is violation of any condition the Learned Trial Court will be empowered to cancel the bail without any reference to this Court.

(Biswaroop Chowdhury, J.)