

Cri. Misc. Case No. 679 / 2022

Order No. 03 dtd. 15.11.2022

The instant application under section 439 of Cr.P.C. filed by accused / petitioner, namely Bhaskar Saha @ Bittu @ Auto, in connection with Uttara Para P.S. Case No. 396/2022 dated 24.10.2022 under sections 448/341/323/325/326/308/354/506/34 of I.P.C., is taken up for hearing.

Heard the Ld. Advocate for the petitioner, who submits that no application under section 439 of Cr.P.C. in respect of this accused person has been rejected or is pending before any higher court of law. He further submits that the instant case has been started involving sections 326/308/354 of I.P.C. He further submits that there is no material of involvement of section 308 of I.P.C. from the facts as made out in the F.I.R. He further points out that on 03.11.2022, a prayer has been made by the I.O. on the basis of statements under section 164 Cr.P.C. of victim, from which it transpires that his prayer was allowed and section 313 I.P.C. was added. He submits that section 313 I.P.C. has been incorporated just to harass the petitioner and other accused persons. He also points out that a simple incident of assault had taken place without use of any weapon of offence and the victim Usha Roy sustained fracture injuries due to a fall. He claims that the petitioner should be enlarged on bail considering his period of detention and the allegations as made out in the F.I.R.

Ld. P.P.-in-charge opposes the prayer for bail relying upon the materials in C.D. including injury report.

Ld. Lawyer for the defacto complainant also appears and submits that I.O. has seized a prescription from a doctor issued to the wife of defacto complainant, from which allegation under section 313 of I.P.C. is substantiated. He points out that serious injuries have been caused to victim Usha Roy. He prays for rejection of bail of the petitioner.

Perused the application under section 439 of Cr.P.C., L.C.R. and C.D.

It appears from F.I.R. that on the basis of complainant Sasanka Sekhar Roy on 24.10.2022, the instant case has been started against the petitioner and others under sections 448/341/323/325/326/308/354/506/34 of I.P.C. F.I.R. contained allegation that the petitioner and others in furtherance of common intention assaulted Usha Roy and her family members mercilessly causing grievous injuries to them. On careful perusal of C.D. and injury report of Usha Roy, it is apparent that she sustained multiple fracture injuries. The statement of witnesses Puja Roy under section 161 Cr.P.C. made on 24.09.2022 and her statement under section 164 Cr.P.C. stipulate that an offence under section 313 of I.P.C. has also taken place concerning her and a prescription seized by the I.O. corroborates the same.

Considering the nature of alleged offence and the manner in which the offence has been committed, I am not inclined to allow the prayer for bail of the petitioner.

Accordingly, prayer for bail of the petitioner namely Bhaskar Saha @ Bittu @ Auto is rejected.

Instant criminal misc. case is, thus, disposed of. Return L.C.R. and C.D.

Let a copy of this order be sent to the Ld. A.C.J.M., Serampore for information and taking necessary action.

Dictated & corrected by me.
Sd/- (Sri M.K. Rai)

A.S.J.

Sd/- (Sri M.K. Rai)
Additional Sessions Judge
1st Court, Serampore