

30.08.19

Sl. No.7

Ct. No.1

akd

[ALLOWED]

CALCUTTA HIGH COURT

In the Circuit Bench at Jalpaiguri

C. R. M. 825 of 2019

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 27.08.2019 in connection with Haldibari Police Station Case No. 66 of 2019 dated 28.04.2019 under Sections 498A/304B of the Indian Penal Code. (G.R. Case No.201 of 2019)

And

In Re: ***Mojibul Sarkar***

... .. Petitioner

Mr. Sourav Ganguly .. Advocate

... .. for the petitioner

Mr. Ujjwal Luksom .. Advocate

Mr. Biswarup Roy .. Advocate

... .. for the State

The petitioner is seeking bail in connection with a case relating to offences punishable under Sections 498A/304B of the Indian Penal Code.

It is submitted on behalf of the petitioner that he is in custody for about 111 days and that investigation is complete. It is further submitted that the incident occurred four years after marriage and that he has been falsely implicated in the instant case.

Learned Counsel for the State opposes the prayer for bail and submits that the deceased made an oral dying declaration to her mother implicating the petitioner and other in-laws. He further submits that inquest report shows injury on the neck of the victim.

We have considered the materials on record. Although the victim was treated in the hospital for eleven days, no dying declaration was recorded in presence of the hospital authorities. It is also strange

that the so-called dying declaration is not reflected in the FIR which was registered six days after the death of the deceased. Post-mortem report does not corroborate the presence of injury on the neck of the victim. These apparent dichotomies in the present case may be assessed at the appropriate stage of the proceeding in accordance with law. However, keeping in mind the facts and circumstances of the case and the period of detention suffered by the petitioner and as investigation is complete, we are of the opinion that further detention of the accused/petitioner is not necessary.

Therefore, the accused/petitioner, namely ***Mojibul Sarkar***, 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 Additional Chief Judicial Magistrate, Mekhliganj, Cooch Behar subject to condition that the said petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

The application for bail, thus, stands **allowed**.

(Manojit Mandal, J.)

(Joymalya Bagchi, J.)