

05-10-2020
k.b./b.r.
Item no.11
rejected

IN THE HIGH COURT AT CALCUTTA
Criminal Miscellaneous Jurisdiction

C.R.M. No. 7203 of 2020

Monoj Mudi

-vs-

The State of West Bengal
(Via video conference)

In Re: An application for bail under Section 439 CrPC arising out of Gazole P.S. Case No. 563 of 2019 dated 02.12.2019 corresponding to GR Case No. 5574 of 2019 for alleged offence punishable under Section 302 of the Indian Penal Code.

Mr. Aninda Biswas
Mr. Ujjal Biswas

...for the petitioner.

Mr. Rana Mukherjee
Mr. S. Das

... for the State.

The advocate-on-record for the petitioner undertakes to affirm and properly stamp the petition as per the rules within one month of resumption of normal functioning of the court. The petition is taken up through video-conference on the basis of such undertaking.

Learned advocate for the petitioner submits that the petitioner is in custody for about 335 days and although the charge sheet has already been submitted in the month of February, 2020, yet there has been no progress in the case.

Learned advocate for the petitioner further adds that if the allegations made in the First Information Report as well as the charge-sheet, are taken to be true, the same would make out a case under Section 304 of the Indian Penal Code and not a case made under Section 302 of the Indian Penal Code.

Mr. Mukherjee, learned advocate for the State produces the memo of evidence with the post mortem report and draws the attention of this Court to the injuries which are available and which are alleged cause for the death.

We have perused the materials available in the memorandum of evidence which includes the statement of witnesses as well as the post mortem report.

We do not find that there is any fact which includes from the initial registration of the First Information Report and the materials so collected by the investigating agency. So far as the submission of the learned advocate for the petitioner relating to the intention of the present petitioner in causing the death of the petitioner is concerned, we are of the opinion that the same is a question of fact which has to be decided at the time of trial.

Having considered the facts of the case in its totality, we are of the opinion that the petitioner is not entitled to be released on bail.

Accordingly the prayer for bail of the petitioner is rejected.

[Tirthankar Ghosh, J.]

[Subrata Talukdar, J.]