

21.12.2020
Item no. 89
Court No.28
AB

C.R.M. No.8322 of 2020

(Via Video Conference)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure in connection with Mirik Police Station Case No.17 of 2020 Dated 22.03.2020 under Sections 305/328 of the Indian Penal Code read with Section 4 of the POCSO Act

And

In the matter of:-

Biswa Kumar @ Biswajit Kumhar

... Petitioner

Ms. Jenia Rudra

.. for the petitioner

Mr. Adity Sankar Chakraborty,
Mr. S. S. Sikdar

..for the State

It is submitted on behalf of the petitioner that he is in custody for eight months. It is further submitted that there is no material to show that the petitioner abetted the suicide of the victim.

Learned Counsel appearing for the State opposes the prayer for bail.

We have considered the materials on record. Statements show that there was an amorous relationship between the parties. The petitioner refused to marry ; as a result the victim committed suicide. Whether the petitioner did not intend to marry the victim

from the inception of the relationship or not, may be assessed at the appropriate stage of the proceeding. However, no forensic report showing presence of poison in the viscera is placed on record.

Under such circumstances and in view of the period of detention suffered by the petitioner and as investigation is complete, we are inclined to grant bail to the petitioner.

Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties of like amount each, each of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Kurseong, 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.

In the event the petitioner fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed.

(Suvra Ghosh, J.)

(Joymalya Bagchi, J.)

