

27.11.2020.
Item No. 17
(Dismissed)
agm

(Via Video Conference)

C.R.M. 9410 of 2020

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure.

And

In the matter of : Mihid Sk.

... petitioner.

Mr. Arindam Sen,
Mr. Raha Sharma, Asraf Mandal, ...For the petitioner.

Mr. Swapan Banerjee,
Ms. Purnima Ghosh, ...For the State.

The learned Advocate-on-Record of the petitioner undertakes to affirm and stamp the petition/application as per the Rules within forty-eight hours of resumption of the normal functioning of the Court. Subject to such undertaking and urgency, the application is taken up for hearing through Video Conference.

The learned Advocate-on-record of the petitioner moves the application for bail. He submits that after 18 years of marriage the victim committed suicide and simply on the basis of complaint by the paternal family members of the victim, he has been arrested and languishing in jail for 265 days. He thus submits that the petitioner should be released on bail as no progress has been shown in the trial, even after filing of the charge sheet.

The learned Advocate for the State vehemently opposes the prayer for bail. It is submitted that the petitioner is guilty of suppressing the material facts by not disclosing that the earlier two applications for bail filed before this Court were rejected on 08.07.2020 and 20.10.2020 respectively. It is further submitted that the petitioner was prima facie found

to have been involved in the commission of offence which would be evident from the recording made in the orders passed in the earlier orders passed in the earlier applications for bail by this Court.

We have an occasion to peruse the averments made in the instant application filed before this Court. The first paragraph indicates that the instant application being the first application for bail filed before this Court. Therefore, denying the filing of the earlier two applications for bail the said paragraph has been affirmed by the deponent as true to his knowledge. The State produces downloaded copy of the orders dated 08.07.2020 and 20.10.2020 passed in CRM 4836 of 2020 (CRAN 3036 of 2020) and CRM 8212 of 2020. We have no hesitation from the observations made in the orders recorded therein that those applications were filed by the petitioner and there has been a deliberate and conscious suppression of the facts that the aforesaid applications were rejected by this Court. Both the orders are of recent origin and it is inconceivable that the person filing the application would forget such fact or such fact would fade from his mind.

An attempt is made by filing repeated applications for bail to take a chance for favourable being order passed unnoticing the factum of rejection of earlier applications. The earlier two applications for bail were moved before the Division Bench presided over by the commonsense judge whereas the instant application has been motivatedly filed so that it would appear before us being the different Division Bench. It is also a brazen attempt to a forum shopping

So far as the merit of the case is concerned, we do not find any changed circumstances since the rejection of the last application for bail filed by the petitioner. Therefore, the prayer for bail is rejected.

However, we cannot shut out eyes or be a mute spectator to such wrongful act on the part of the petitioner in

filing the instant application for bail. We have further noticed that on each occasion the petitioner has engaged a separate lawyer in order to suppress the factum of rejection of the earlier application for bail.

We, therefore, impose a costs of Rs. 50.000/- upon the petitioner as well as the deponent equally or severally and such cost shall be deposited with the State Legal Services Authority within two weeks from date.

Default in payment of the costs shall entitle the said authority to recover the said amount as arrear of revenue under the Bengal Public Demands Recovery Act, 1913 by initiating a certificate proceedings.

The application being CRM 9410 is dismissed.

(Hiranmay Bhattacharyya, J.)

(Harish Tandon, J.)