

15.03.2021
Item No.04
Ct.No.28
Subha
rejected

C.R.M. 47 of 2021
(Via Video Conference)

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

In the matter of : Kartik Dutta ... Petitioner.

Mr. Navanil De
Mr. Rajeshwar Chakraborty
... For the Petitioner.

Mr. Saibal Bapuli, APP
Mr. Arani Bhyattacharyya ... For the State.

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Chanditala P.S. Case No. 269 of 2019 dated June 25, 2019 under Sections 302/34 of the Indian Penal Code (G. R. Case No. 1037 of 2019).

Mr. De, learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated. There are inconsistencies in the contents of the complaint lodged and the statement of the witness, as recorded under Section 164 of the Code.

He further submits that the deceased was the victim of, not a murder but, an incident in the nature of a Road Traffic Accident (*RTA*).

Upon completion of investigation, charge sheet has also been submitted and as such, further detention of the petitioner, who is in custody since 26th June, 2019, is not warranted in the facts and circumstances.

Records reveal that by an earlier order dated 6th January, 2021, this court directed the Investigating Officer to obtain written confirmation from the Deputy Superintendent, Medical College and Hospital on the alleged authenticity of the claim of the petitioner with regard to death of the victim in the *RTA*. Subsequent thereto, by an order dated 8th March, 2021, we directed the Investigating Officer to record the statements of Dr. Jayanta Sanyal, Deputy Superintendent, Medical College and Hospital and one Dr. Sisir Kumar Jana, Medical Officer, who had prepared the report.

Pursuant to such direction, statements as recorded under Section 161 of the Code have been placed before this court. Let the report of the Investigating Officer as filed through the learned advocate appearing for the State be kept with the record.

Dr. Sisir Kumar Jana, Medical Officer, Medical College and Hospital in his statement has recorded that the word '*RTA*' was erroneously incorporated.

We have perused the materials in the case diary including the statement of the eye-witness, as recorded under Section 161 of the Code.

Prima facie, the materials in the case diary reveal the involvement of the present petitioner in the alleged offence. Considering the gravity of the offence and the extent of complicity of the present petitioner in the alleged offence, we are not inclined to exercise any discretion in favour of the petitioner and as such, his prayer for bail is refused at this stage.

Accordingly, the application for bail being CRM 47 of 2021 is dismissed.

The personal appearance of the Investigating Officer is dispensed with.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Tirthankar Ghosh, J.)

(Tapabrata Chakraborty, J.)