

07-01-2021

K.B.
Item no.6
Rejected

IN THE HIGH COURT AT CALCUTTA
Criminal Miscellaneous Jurisdiction

C.R.M 74 of 2021
Md. Jamsed Ali Mondal
-vs-
The State of West Bengal

In Re: An application for bail under Section 439 CrPC in the matter of S.T. 4(9) 2019 arising out of Baduria Police Station Case being No.152/18 dated 10.04.2018 under Section 302 of the Indian Penal Code.

Mr. Kallol Kumar Basu
Md. Jannat ul Firdous ...for the petitioner.

Mr. Madhusudan Sur
Mr. Dipankar Paramanick ... for the State.

Mr. Basu, Learned Counsel, appears in support of this application for bail in connection with Baduria Police Station Case being No.152/18 dated 10.04.2018 under Section 302 of the Indian Penal Code.

Mr. Basu submits that charge-sheet in the case was filed before the Learned Trial Court on the 26th of June, 2018 and charges were framed more than a year later on the 6th of September, 2019. There are 22 witnesses to be examined in the trial. Citing delay in commencement of the trial, the petitioner invokes his right to obtain the relief of bail.

It is further submitted by the petitioner that even summons are yet to be served.

Mr. Sur, Learned Additional Public Prosecutor with Mr. Paramanick, Learned Advocate, relies on the Section 164 CrPC statement of the son and daughter of the petitioner as well as of the

deceased, who was the wife of the petitioner. It is submitted from the materials placed by Learned State Counsel that the petitioner is also an accused in a case under Section 376 IPC and the proceedings in respect of the said case have also commenced simultaneously to the present trial.

It is further submitted that the deceased/the wife of the present petitioner was allegedly a witness to the offence under Section 376 IPC and by causing the death of his wife, the petitioner intended to remove ocular evidence connected to his culpability in the offence under Section 376 IPC. It is submitted that the son and daughter of the petitioner are witnesses to the grim scenario of their father taking their mother away to commit the alleged crime and has deposed accordingly through their statements under Section 164 CrPC.

Having regard to the rival submissions and the gamut of facts and circumstances as stated above, this Court finds that the extent of complicity of the petitioner in the present alleged offence as pointed out by Learned State Counsel from the materials placed, overwhelms the stand taken by the petitioner that there is a delay in kickstarting the trial.

At this stage, Learned State Counsel clarifies that the date of the trial has been fixed in the first week of January, 2021 which Mr. Basu disputes on the basis of telephonic instructions.

Prayer for bail stands accordingly rejected.

Learned Trial Court is however requested to expedite the trial subject to its board.

In addition to the parties communicating this order formally

to the Learned Trial Court, **Registry** is also directed to communicate this order to the Learned Trial Court.

CRM No. 74 of 2021 stands accordingly **disposed of**.

All parties shall act in terms of the copy of the order downloaded from the official website of this Court.

Urgent xerox certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

[Subhasis Dasgupta, J.]

[Subrata Talukdar, J.]