

24.03.2021.
Item No.91
(Rejected)

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C.R.M. 1146 of 2021

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed on 27.01.2021 in connection with Sonamukhi P.S. Case No. 65 of 2020 dated 20.06.2020 under Sections 302/34 of the Indian Penal Code;

And

In the matter of : **Chaina Ghosh.**

... petitioner.

Mr. Niladri Sekhar Ghosh,

Ms. Srimoyee Mukherjee.

...For the petitioner.

Mr. Rana Mukherjee, Ld. APP,

Mrs. Sujata Das.

...For the State.

This is an application for bail in connection with Sonamukhi Police Station Case No. 65 of 2020 under Sections 302/34 of the Indian Penal Code at the behest of the petitioner.

A point was sought to be canvassed before us that initially a case was initiated under Section 302 of the Indian Penal Code but the charge-sheet was submitted under Section 304 of the said Code, which tantamount to the dilution of the gravity of offence, which was alleged to have been committed at the time of registration of First Information Report.

This propels the learned Advocate for the petitioner to submit that the moment the charge-sheet has been submitted the petitioner attempted to save her and in defence the husband died. He says that the petitioner is in custody for 272 days. Since the charge-sheet has already been submitted, no further custody of the petitioner is required.

The learned Advocate for the State opposes the prayer for bail. It is submitted that there is an incriminating

material found against the petitioner and the charge-sheet has already been submitted on 16th September 2020.

After hearing the respective counsel and on perusal of the materials available from the case diary as well as the orders of earlier rejection of the bail applications by this Court, which are also annexed with the instant application, we find that the first application for bail was rejected on 18th November, 2020 obviously after the submission of the charge-sheet. The second application was also rejected but, according to the learned Advocate for the petitioner, it was on a technical ground as there was a gross suppression of the factum of the rejection of the earlier application for bail by this Court.

Be that as it may, we find that once the application for bail got rejected after the submission of charge-sheet, we do not find any changed circumstances warranting a differential treatment to what was extended to the petitioner in the order rejecting the first application for bail. We, thus, do not find any ground for allowing the petitioner to be released on bail.

Accordingly, the application for bail being CRM 1146 of 2021 is **rejected**.

(Harish Tandon, J.)

(Tirthankar Ghosh, J.)