

24.06.2021

Court No.28
Item No.27

Akd
&
Ab

CRM 2086 of 2021
(Via Video Conference)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Jagatballavpur Police Station Case No. 138 of 2020, dated 05.09.2020 under Sections 302/34 of the Indian Penal Code.

And

In the matter of : **Mithu Sikari & Anr.**

...Petitioners

Mr. Sandip Chakraborty,
Mr. Ashok Das,
Ms. Ayana Dey.

...For the Petitioners

Mr. Ranabir Roychowdhury,
Mr. Rudradipta Nandy.

...For the State.

The petitioners have filed the instant application for bail under Section 439 of the Code of Criminal Procedure after being arrested in connection with Jagatballavpur Police Station Case No. 138 of 2020 under Sections 302/34 of the Indian Penal Code.

Learned Advocate for the petitioners submits that the petitioners have been falsely implicated in this case, as the victim himself committed suicide. It is further submitted that the deceased victim is habitual drunker and following a family dispute he himself committed suicide.

The attention of this Court is drawn by the learned Advocate for the petitioners to the Post Mortem report, wherein non-continuous ligature mark is noted, which is indicative of committing a suicide.

Learned Advocate for the State raises objection against the prayer for bail. It is submitted by the learned Advocate for the State drawing attention to the statement of the witness recorded under Section 161 of the Code of Criminal Procedure, that there is reference of quarrel between the deceased victim and the petitioners prior to occurrence, which would establish complicity against petitioners. The learned Advocate, in his all fairness submits that the deceased victim is a drug addict, but he has no explanation as regards the view of the Autopsy Surgeon, sought to be capatilised.

Having considered the submissions of both sides, and bearing in mind the opinion of the Autopsy Surgeon making out a case of suicidal death, as against the contention of prosecution, based on a homicidal death, we are inclined to grant bail to the petitioners, as further detention of the petitioners is no longer justified. More so, the charge sheet in this case has already been submitted.

Accordingly, the petitioners, **Mithu Sikari and Gour Sikari**, shall be released on bail upon furnishing a bond of Rs.10,000 /- each (Rupees Ten Thousand), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Howrah subject to the condition that the petitioners shall appear before the Trial Court on every date of hearing, so that proceeding of Court is not disturbed, and neither tamper with the evidence collected, nor intimidate the witness in any manner whatsoever.

In the event the petitioners fail to observe the conditions of bail, without any justifiable reasons, the learned Trial Court may pass necessary order disentitling their privilege granted to the petitioners without any reference to this Court.

The application for bail, being CRM 2086 of 2021, is thus **disposed of.**

(Harish Tandon, J)

(Subhasis Dasgupta,J.)