

25.06.2021

Court No.28
Item No.17

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&
As

CRM 2283 of 2021
(Via Video Conference)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Palashipara Police Station Case No. 248 of 2020, dated 08.09.2020 under Sections 447/326A/307/34 of the Indian Penal Code and adding Section 302 of the Indian Penal Code.

And

In the matter of : **Ajarul Sk. @ Raju**

...Petitioner

Mr. Asraf Mandal,
Mr. Manas Kumar Das.

...For the Petitioner

Mr. Sudip Ghosh,
Mr. Bitasok Banerjee,
Mr. Apurba Kumar Datta.

...For the State.

The Advocate on Record of the petitioner undertakes to affirm and stamp the petition/application as per the Rules within four weeks from date. Subject to such undertaking the application is taken up for hearing.

The petitioner has filed the instant application for bail under Section 439 of the Code of Criminal Procedure after being arrested in connection with Palashipara Police Station Case No. 248 of 2020 under Sections 447/326A/307/34 of the Indian Penal Code and adding Section 302 of the Indian Penal Code.

Learned Advocate for the petitioner submits that the petitioner is languishing in jail for about 266 days in connection with the instant case without any complicity to the commission of the alleged offence. It is submitted that he is neither named in the First Information Report nor his name is revealed in the dying declaration of the victim lady, but subsequently his name was revealed by the parents of the victim lady and the petitioner has been apprehended on the basis thereof.

Learned Advocate for the State opposes the prayer for bail. It is submitted that though the name of the petitioner was not revealed/disclosed in the dying declaration of the victim lady, but his name transpires from the second statement of the parents recorded under Section 161 of the Code of Criminal Procedure and, therefore, the involvement of the petitioner to the commission of offence cannot be ruled out.

After hearing the respective Counsels and on perusal of the materials available in the case diary, it is no doubt true that the name of the petitioner was not divulged by the victim lady while recording the dying declaration. It is a case of an acid burn injury, which appears to have been sprinkled by the ex-husband of the victim lady, who subsequently succumbed to such injury. The disclosure appears to have been made that the said first husband accompanied by some others came at the spot and sprinkled the acid on the face of the victim lady.

The statement of the minor son of the victim lady recorded under Section 161 of the Code of Criminal Procedure also does not disclose the name of the petitioner. The first statement of the parents recorded by the Investigating Officer also does not reveal the name of the petitioner. It is only in the second statement, which was recorded at the later point of time, disclosed the name of the petitioner. The case is based on the quality and degree of the evidence to be adduced by the witnesses as the direct involvement of the petitioner does not prima facie appear to have been found against the petitioner.

We thus do not think that there is any necessity of keeping the petitioner in custody and the prayer for bail is thus allowed.

Accordingly, the petitioner, **Ajarul Sk. @ Raju**, shall be released on bail upon furnishing a bond of Rs.10,000 /- (Rupees Ten Thousand), with two sureties of like amount, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial

Magistrate, Tehatta, Nadia subject to the condition that the petitioner shall appear before the Trial Court on every date of hearing until further orders.

In the event the petitioner fails to do so without any justifiable cause, the Trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

The application for bail, being CRM 2283 of 2021, is thus **disposed of.**

(Harish Tandon, J)

(Subhasis Dasgupta,J.)