

22.09.2021

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Ct. 30

CRA 160 of 2021

With

CRAN 1 of 2021

With

CRAN 2 of 2021

(Via Video Conference)

In Re: an application under Section 389 of the Code of Criminal Procedure, 1973 being CRAN 2 of 2021 filed on 2nd August, 2021 in connection with Sessions Trial No.28(5) of 2009.

And

In the matter of: Md. Salim @ Chikna

Vs.

The State of West Bengal

Mr. Sanjoy Chakraborti

..for the appellant

Mr. Madhusudan Sur, APP

Mr. Dipankar Paramanik

...for the State

The conviction of life sentence is based on circumstantial evidence. Learned trial Judge has relied upon the theory of last seen together which formed the basis for the conviction as the accused was unable to explain as to how after the accused was seen with Nila the victim was found dead. The dead body of Nila was recovered from the room bolted from outside. The accused could not remove the suspicion raised with regard to the involvement of the petitioner in the

commission of offence. Learned trial Judge relied Section 106 of the Evidence Act and held that the burden should be placed upon the accused acting upon the theory of last seen together. It is argued before us that the petitioner was on bail during trial. However, having regard to the quality of evidence now on record implicating the petitioner for the alleged offence and there are materials implicating the petitioner in the commission of the alleged offence we are not inclined to release the appellant on bail at this stage.

The application being **CRAN 2 of 2021** stands rejected.

The office record shows that LCR has not yet been received. Accordingly, we direct the A.D.J., Fast Track Court No.2, Barrackpore to ensure transmission of the record of Sessions Trial Case No. 28(5) of 2009 within one week from the date of receipt of this order. The department is directed to prepare paper book within eight weeks after the Puja Vacation.

Liberty to mention after preparation of paper books.

This order shall be communicated to the A.D.J., Fast Track Court No.2, Barrackpore by the Registrar, Administration (L & O.M.) to ensure compliance.

(Rabindranath Samanta, J.)

(Soumen Sen, J.)

