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C.R.M. 3419 of 2021

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on **16/04/2021** in connection with **Karimpur Police Station Case No. 250 of 2020** dated **19/10/2020** under Sections **302/34** of the Indian Penal Code.

And

In the matter of: - **Goutam Biswas**

....petitioner.

Mr. Asraf Mandal

...for the petitioner.

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

...for the State.

The petitioner is one of the two accused persons. The charge is of murder. The other co-accused person is the petitioner's wife who has been granted bail by this Court on January 19, 2021 in C.R.M. 240 of 2021.

Learned Advocate for the petitioner submits that there was a property dispute between the petitioner and his brother, who is the victim. There was altercation between them and in the heat of the moment the petitioner struck his brother with a sharp-edged weapon, which led to the death of the brother. There was no intention on the part of the petitioner to kill his brother.

Learned Advocate for the State produces the Case Diary and draws our attention to the statement of an eye-witness recorded under Section 164 of the Code of Criminal Procedure. Our attention has also been drawn to the post mortem report which says that the death was homicidal.

We have considered the facts and circumstances of the case and the material in the Case Diary. The charge-sheet has been submitted upon conclusion of investigation. It is quite possible that out of property disputes the petitioner assaulted the victim in the heat of the moment without having any intention to kill him. However, we do not express any opinion in that regard.

We are of the view that since charge-sheet has been submitted, the petitioner need not be detained any further.

Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs. 10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the Additional Chief Judicial Magistrate, Tehatta, Nadia on condition that the petitioner shall appear before the trial Court on every date of hearing and shall meet the Officer-in-Charge of the local Police station once in every ten days until further orders and shall not leave the district without leave of the Officer-in-Charge. The petitioner is further directed not to intimidate the witnesses and/or tamper with evidence in any manner whatsoever and shall not commit similar offence in future.

In the event the petitioner fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this court.

The application for bail being C.R.M. 3419 of 2021 is, accordingly, allowed.

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

(Suvra Ghosh, J.)

(Arijit Banerjee, J.)