

23.08.2021

CRM 3432 of 2021

court no. : 28
Item no. : PB-13
matter : 439
status : REJECTED
transcriber : nandy

In Re:- An application for **Bail** under Section **439** of the Code of Criminal Procedure filed on 16.04.2021 in connection with Malda Police Station Case No. 319 of 2016 dated 07.06.2016 under Sections 306/34 of the Indian Panel. (G.R. Case No. 2377 of 2016)

and

In the matter of: **Kalpana Haldar & Anr.**

.....Petitioners

Mr. Satarup Purakayastha, Advocate

.....for the Petitioners

Mr. Partha Pratim Das, Advocate

Ms. Manasi Roy, Advocate

.....for the State

The Advocate-on-record of the petitioners 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 petitioners have filed the instant application for bail in connection with Malda Police Station Case No. 319 of 2016 dated 07.06.2016 under Sections 306/34 of the Indian Panel.

It is submitted by the learned Advocate of the petitioners that there was a scuffle with the deceased over the allegation of theft and later on the deceased committed suicide by hanging on a tree. There is no allegation of Section 306 of the Indian Penal Code and, therefore, the petitioners who are in custody for nearly 260 and 229 days respectively should be released on bail immediately. He further submits that subsequently the de facto complainant have sworn an affidavit which is filed with the trial Court to the effect that under the mistaken perception, the case was initiated which she does not intend to proceed with.

The learned Advocate for the State opposes the prayer for bail. It is submitted that the case, which was, initiated way back in the year 2016, the petitioners could avoid the arrest for a pretty long time until the first quarter of 2021. Furthermore, most of the accused are still absconding and, therefore, the custody of the petitioners is necessary. It is further submitted that the petitioners could manage to get that affidavit which appears to be false and forged one.

We have seen the materials available from the case dairy and the fact that the petitioners have avoided the arrest for pretty long time until apprehended in the first part of this year. Furthermore, whether the affidavit is genuine or not is a matter of trial to be decided by the Court concerned. Once case has been initiated and most of the accused are still avoiding the arrest, we do not think that this is a fit case where the petitioners should be enlarged on bail.

As such, the prayer for bail is **rejected**.

The application being **CRM 3432 of 2021** is accordingly **dismissed**.

(Harish Tandon, J.)

(Bibek Chaudhuri, J.)