

24.09.2021

CRM 3880 of 2021

Court No.28
Item No.8
(PARTLY
ALLOWED)

Ab

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Manikchak Police Station Case No. 253 of 2019 dated 16.07.2019 under Sections 498A/304B/302/201/120B of the Indian Penal Code (G.R. Case No. 3070 of 2019);

And

In the matter of : **Pinku Kumar Mandal @ Pinku Raj and another.**
...Petitioners

Mr. Sekhar Kumar Basu,
Mr. Soubhik Mitter,
Ms. Rajnandini Das.

...For the Petitioners

Mr. Saswata Gopal Mukherjee, Ld. PP,
Ms. Faria Hossain,
Mr. Aniket Mitra.

... 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 Manikchak Police Station Case No. 253 of 2019 dated 16.07.2019 under Sections 498A/304B/302/201/120B of the Indian Penal Code.

There has been a substantial progress in the trial of the case. The petitioner no. 1 is in custody for more than 700 days and the petitioner no. 2 is in custody for more than 800 days. The instant application is filed jointly by the petitioners when their earlier application for bail filed individually was rejected by this Court.

So far as the petitioner no. 1 is concerned, his application for bail being CRM 7850 of 2020 was dismissed on 15th October 2020 by a Co-ordinate Bench of this Court. It is observed therein that the materials on record and the statement of the witnesses including the other attending circumstances clearly establishes the prima facie

role of the said petitioner in aiding and abetting the principal accused i.e. the petitioner no. 2 in murdering the housewife. It was further observed that the co-accused, who have been enlarged on bail, stand on different footing that of the said petitioner.

Subsequent to the rejection of the said application, the ball rolled in the Court of trial and first witness was examined on 10th December 2020. Out of twenty-eight witnesses six have already been examined and the evidence of seventh witness is going on.

A case has been initiated on the murder of the wife of the petitioner no. 2 within one year and seven months of marriage and the petitioner no. 1 has been implicated, as he is the friend of petitioner no. 2 and were seen together including the deceased by a person, who is a owner of a tea stall.

The State relies upon the statement of the said witness recorded under Section 164 of the Code of Criminal Procedure, who has identified the petitioner no. 1 to have accompanied the petitioner no. 2 and his wife before the said unfortunate incident.

Probably on such score, the Co-ordinate Bench rejected the said application for bail even though the charge-sheet was submitted prior thereto.

All the witnesses, who have been examined, do not reveal as of time the direct involvement of the petitioner no. 1 in aiding and abetting the commission of offence by the petitioner no. 2 and the witness, who has prima facie established the role of the petitioner no. 1, has not been shown in the charge-sheet. There are no other witnesses, who are yet to be examined, have established the link

between the petitioners for commission of offence, more particularly, aiding and abetting or assisting and helping the petitioner no. 2 in this regard. Even the statement of the material witness including the defacto complainant do not reveal the role ascribed to the petitioner no. 1 and, therefore, we do not find any difficulty in allowing the prayer for bail so far as it relates to petitioner no. 1 is concerned.

Accordingly, the petitioner no. 1, namely, **Pinku Kumar Mandal @ Pinku Raj**, shall be released on bail upon furnishing a bond of Rs.10,000 /- (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, Malda, subject to the condition that the petitioner no. 1 shall appear before the Trial Court on every date of hearing until further orders.

In the event the petitioner no. 1 fails to do so without any justifiable cause, the Trial Court shall be at liberty to pass necessary order in accordance with law without any further reference to this Court.

The role ascribed to the petitioner no. 2 is concerned being the husband of the deceased, there has been incriminating material and several other witnesses yet to be examined may decide the fate of the prayer for bail.

We, thus, do not find any grounds for allowing the prayer for bail so far as the petitioner no. 2 is concerned. Hence, the prayer for bail of the petitioner no. 2, namely, **Biki Soni @ Bikash @ Bikash Soni**, is rejected.

We have been informed that the next schedule for recording

the evidence is fixed on 29th November 2021.

The prosecution is directed to bring all the witnesses as per the schedule fixed by the learned Sessions Judge.

Mr. Sekhar Kumar Basu, learned Advocate for the petitioners, assures this Court to cooperate and assist the Court below in completion of trial and shall not ask any unnecessary adjournment.

The trial court shall fix the date following the mandate under Section 309 of the Code of Criminal Procedure and endeavour shall be shown to dispose of the case within a month of April 2022.

The application for bail being CRM 3880 of 2021 is thus **disposed of.**

(Harish Tandon, J)

(Bibek Chaudhuri, J.)