

60. 16.09.2021

Ct.32

Tanmoy

Rejected

C.R.M. 4195 of 2021

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on **21/06/2021** arising out of **Purulia Town Police Station Case No. 07/20** dated **18/01/2020** under Section **302** of the Indian Penal Code and adding Section **120B** of the Indian Penal Code.

And

In the matter of: - **Papree Biswas Chattaraj @ Papree**

...petitioner.

Mr. Milon Mukherjee, Ld. Sr. Adv.,
Mr. Angshuman Chakraborty,
Mr. S.S. Saha

...for the petitioner.

Mr. Nguive Ahmed, Ld. A.P.P.,
Ms. Trina Mitra

...for the State.

This is a case under Section 302 of the Indian Penal Code adding Section 120B of the Indian Penal Code. Learned Senior Advocate for the petitioner submits that save and except that she resisted the family members from coming to the rescue of the victim at the time of the incident there are no other incriminating material to implicate this petitioner who is languishing in custody for the last 19 months. He further submits that there was a relationship between this petitioner and another accused who is also in custody and the entire case is based on certain circumstances. There is no eyewitness to the occurrence. The other accused has been identified in Test Identification Parade by the mother of the deceased.

Learned Advocate for the State opposes the bail prayer precisely on the score that a co-ordinate Bench of this Hon'ble

Court in C.R.M. 8593 of 2020 rejected the bail prayer of this petitioner *vide* its order dated December 2, 2020 and furthermore, he went on to submit that in the statement of the 10 years old daughter of the petitioner, there are sufficient material against this petitioner.

We have heard learned Advocates of both the sides. Perused the material in the Case Diary. It appears from the statement of the daughter of this petitioner at page 146 of the Case Diary that while the incident was going on, this petitioner restrained the mother of the deceased to rescue the deceased which *prima facie* indicates awareness of this petitioner regarding the incident that was taking place in the house. Learned Advocate for the petitioner has drawn our attention to the post mortem report wherein though the cause of death has been mentioned to be combined effects of head injury and asphyxia yet, the hyoid bone has been indicated to be intact which raises a serious doubt as to the cause of death. We are of the view that those are points to be decided in the trial not at the stage of hearing of this bail application.

On an overall assessment of the material as indicated above and also considering the complicity of this petitioner in the alleged offence and keeping in mind the nature and gravity of the offence, we are not inclined to allow the bail prayer of the petitioner.

Accordingly, the application for bail being C.R.M. 4195 of 2021 is **dismissed**.

However, we make it clear that the observations made herein are only for the purpose of disposing of this application for bail and shall have no bearing on the trial.

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

(Bivas Pattanayak, J.)

(Arijit Banerjee, J.)