

26.08.2021

CRM 4206 of 2021

court no. : 28
item no. : PB-06
matter : 439
status : ALLOWED
transcriber : nandy

In Re: An application for **Bail** under Section **439** of the Code of Criminal Procedure filed on 21.06.2021 in connection with Kaliganj Police Station Case No. 237 of 2021 dated 01.05.2021 under Sections 498A/307/34 of the Indian Penal Code read with Section 4 of the Dowry Prohibition Act. (Misc. Case No. 1235 of 2021)

and

In the matter of: **Khabiruddin Sekh.**

..... Petitioners

Ms. Karabi Roy, Advocate

..... for the Petitioners

Mr. Rana Mukherjee, Advocate

Ms. Sukanya Bhattacharya, Advocate

Mr. Md. Kutubuddin, Advocate

..... for the State

Advocate-on-record of the petitioner 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 petitioner has filed the instant application for bail in connection with Kaliganj Police Station Case No. 237 of 2021 dated 01.05.2021 under Sections 498A/307/34 of the Indian Penal Code read with Section 4 of the Dowry Prohibition Act.

A married lady within two years of marriage was allegedly administered poison with the intention to kill. The husband of the said lady has approached us by filing the instant application praying for bail on the ground that the alleged incident took place on April 29, 2021 when he was in Kochi and he returned to his native place on April 30, 2021 i.e. on the subsequent date of the occurrence. It is also submitted by the learned Advocate for the petitioner that he is in custody for 109 days.

Learned Public Prosecutor in-charge opposes the prayer for bail on the ground that the wife of the petitioner, who subsequently recovered after being administered poison, made a statement under Section 164 of the Code of Criminal Procedure stating, *inter alia*, that her husband conspired with other co-accused persons to administer poison to her.

The Investigating Officer did not retrieve the alleged conversation between the petitioner and other matrimonial relations of the victim. There is absolutely no material in the case diary in support of such allegation of conspiracy. Moreover, the petitioner was not present at the time of the alleged administration of poison and the allegation has been levelled against two accused persons with whom he had no direct connection on the date of occurrence and, therefore, he does not stand on the same footing with that of the other accused persons.

In view of such circumstances, we are inclined to release the petitioner on bail.

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

Accordingly, the petitioner, **Khabiruddin Sekh**, shall be released on bail on the following conditions:-

- i) The petitioner shall furnish a bond of Rs.10,000/-, with two sureties of Rs.5,000/- each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Krishnanagar, Nadia;
- ii) The petitioner shall make himself available on each and

every date so fixed by the trial Court;

- iii) The petitioner shall not tamper with the evidence and shall not intimidate the witnesses in any manner whatsoever;
- iv) Failure to attend the Court on a solitary day without any justifiable reason shall disentitle the petitioner the privilege of bail and the trial Court would be at liberty to cancel the bail without any reference to this Court.

The application being **CRM 4206 of 2021** accordingly **disposed of.**

(Harish Tandon, J.)

(Bibek Chaudhuri, J.)