

23.08.2021

Court No.28
Item No.34
(Allowed)

Saswata

CRM 4221 of 2021

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Joypur Police Station Case No. 35 of 2021 dated 04.03.2021 under Sections 302/34 of the Indian Penal Code;

And

In the matter of : **Jahar Jana**

...Petitioner

Mr. Pintu Karar

...For the Petitioner

Mr. N. Ahmed, APP

Mr. Anwar Hossain

Ms. Amita Gaur

... For the State

The petitioner has filed the instant application for bail under Section 439 of the Code of Criminal Procedure in connection with Joypur Police Station Case No. 35 of 2021 under Sections 302/34 of the Indian Penal Code.

The petitioner is in custody since 30th April 2021 in connection with the aforementioned case and filed the application for bail on the ground that he has been unnecessarily implicated in connection with the instant case without any iota of evidence found against him during the investigation. It is further submitted that the deceased was his brother and there was a property dispute amongst the brothers and the petitioner was in fact tortured and forced by the local people to pay a certain amount of money in settlement of such dispute.

The State opposes the prayer for bail and submits that there is a suicidal note written by the deceased which would, prima facie, establish a link to the role of the petitioner in committing the offence.

It is no doubt true that the instant case was registered on an

application of the wife of the deceased filed under Section 156 (3) of the Code of Criminal Procedure alleging the forceful administration of the poison by the petitioner and the other co-accused to grab the property of the deceased. It is further submitted that it would be evident from the post-mortem report that the deceased died due to consumption of poison.

After hearing the respective submissions and on perusal of the note allegedly written by the deceased and the words used therein, though the name of the petitioner has been disclosed, yet it does not directly involve the petitioner, at least prima facie, for administration of the poison. There is a frail evidence for the purpose of Section 302 of the Indian Penal Code to which we feel that the custodial interrogation of the petitioner is not necessary. Furthermore, charge sheet has already been submitted which does not justify further custodial interrogation of the petitioner.

The prayer for bail of the petitioner is, thus, considered and ***allowed.***

Accordingly, the petitioner shall be released on bail upon furnishing a bond of ₹10,000/- (Rupees Ten Thousand), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Uluberia, Howrah subject to the condition that the petitioner shall appear before the Trial Court on every date of hearing until further orders and on further condition that the petitioner shall meet the Inspector-in-charge of the concerned police station once in a week and the petitioner shall not tamper with the evidence or intimidate witnesses.

In the event the petitioner 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 application for bail, being CRM 4221 of 2021, is thus **disposed of.**

(Harish Tandon, J)

(Bibek Chaudhuri,J.)