

24.09.2021

Court No.28
Item No.28
(REJECTED)

Saswata

CRM 4746 of 2021

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Dankuni Police Station Case No. 248 of 2020 dated 14.12.2020 under Sections 302/34 of the Indian Penal Code (G.R. Case No. 1946/2020);

And

In the matter of : **Subarna Chowdhury & Anr.**

...Petitioners.

Mr. Sekhar Basu, Sr. Adv.

Ms. Arushi Rathore

Ms. Rajnandini Das

...For the Petitioners

Ms. Trina Maitra

... For the State

The petitioners have filed the instant application for bail under Section 439 of the Code of Criminal Procedure in connection with Dankuni Police Station Case No. 248 of 2020 under Sections 302/34 of the Indian Penal Code.

The petitioner no.1 is the alleged first wife of the deceased, while the petitioner no.2 is the mother of petitioner no.1. It is revealed from the statement made by the learned senior Advocate for the petitioners, as well as from the case diary that the alleged husband of petitioner no.1, since deceased, married for the second time and he used to reside with the said second wife. Be it mentioned here that petitioner no.1 has also married another person, namely, Sudipta Chowdhury during subsistence of her first marriage.

Dispute cropped up between the petitioners and the deceased over the said marriage. On the date of occurrence, i.e., on 6th December 2020, it is alleged that the petitioners came to the house of the deceased, abused him and her second wife, assaulted them and then the petitioners confined the deceased in a room and poured kerosene oil on his body and set him on fire. With 68% burn injury,

the deceased was first taken to R.G.Kar Hospital and, thereafter, transferred to SSKM Hospital, where he died on 14th December 2020.

It is also learnt from the submission made by the learned senior Advocate on behalf of the petitioners that charge sheet has been filed in the instant case, but the case has not yet been committed in the Court of Sessions.

The petitioners are in custody for about 282 days.

From the copy received on behalf of the petitioners under Section 207 of the Code of Criminal Procedure, the learned Counsel for the petitioners draws our attention to the statement of the deceased recorded on 7th December 2020 by the attending doctor, where he allegedly did not take the name of any person as his assailants.

Further in the subsequent statement, recorded on 9th December 2020, the deceased allegedly stated that the petitioners poured kerosene oil on his body and set him ablaze. The deceased expired on 14th December 2020.

The Learned Advocate for the petitioners prays for bail on the ground that the deceased did not state the names of his assailants in his first dying declaration. At that point of time, the deceased was more conscious and alert than at the time of making the second declaration on 9th December 2020. Therefore, the petitioners may be released on bail.

Learned Public Prosecutor in-charge opposed the prayer of bail.

We have carefully perused the case diary. At this stage, there are two dying declarations. Which of the two dying declarations

would prevail, is a matter of trial. The case diary discloses the statement of the witnesses, namely, the inmates of the said house including the second wife of the deceased. They clearly stated the involvement of the petitioners in commission of the said offence.

Accordingly, we do not think that this is a fit case, where the petitioners should be enlarged on bail.

Accordingly, the prayer for bail of the petitioner is ***rejected***.

The application for bail being CRM 4746 of 2021 is ***dismissed***.

(Harish Tandon, J)

(Bibek Chaudhuri, J.)