

06.12.2021
tkm/ct 28
sl no. 8

C.R.M. 4977 of 2021

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Asansol P.S case no. 318 of 2020 dated 6.10.2020 under sections 302/506/34 of the Indian Penal Code
And

Allowed

In Re : Md. Naushad Hussain @ Mungary @ Mungari
..... petitioner

Mr. Sekhar Kr. Basu, Sr. Adv
Mr. S Mukherjee

..... for the petitioner

Mr. M Sur
Mr. D Paramanick

..... for the State

Petitioner is in custody for about 342 days and it is submitted on behalf of the petitioner that the post mortem report discloses a case of strangulation whereas allegation of strangulation is singularly absent in the FIR.

Learned lawyer for the State opposes the prayer for bail. He draws our attention to the statements of eye-witnesses recorded under section 164 Cr.P.C wherein it is alleged that the victim was also strangled by a member of the unlawful assembly.

We have considered materials on record. We note that the petitioner was unarmed and had kicked at the deceased. Cause of death is strangulation and cannot be attributed to the petitioner.

In view of the aforesaid facts and circumstances of the case and the period of detention suffered by the petitioner, we are inclined to grant bail to him.

Accordingly, the petitioner shall be released on bail upon furnishing a bond of Rs. 10,000/- with two sureties of like amount each, one of whom must be local to the satisfaction of the learned CJM, Paschim Bardhaman on condition that he shall appear before

the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

The application being CRM 4977 of 2021 is disposed of.

(Bivas Pattanayak, J.)

(Joymalya Bagchi, J.)