

18.11.2021

CRM 5398 of 2021

Court No.28
Item No.55
(PARTLY
ALLOWED)

Ab

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed on 12.08.2021 in connection with Bhupatinagar Police Station Case No. 118 of 2021 dated 08.04.2021 under Section 302 of the Indian Penal Code (G.R. Case No. 664 of 2021);

And

In the matter of : **Sukdeb Barui and another.**
...Petitioners

Mr. Anup Dasgupta.
...For the Petitioners

Mr. Sudip Ghosh,
Mr. Apurba Kumar Datta.
... For the State

The Advocate-on-record of the petitioners 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 petitioners have filed the instant application for bail under Section 439 of the Code of Criminal Procedure after being arrested in connection with Bhupatinagar Police Station Case No. 118 of 2021 dated 08.04.2021 under Section 302 of the Indian Penal Code.

Learned Advocate for the petitioners submits that the petitioners are in custody for 221 days in connection with the aforementioned case. It is further submitted that the petitioner no. 2 is living in correctional home along with her nine months child.

Learned Advocate for the State opposes the prayer for bail. It is submitted that the petitioner no. 1 and the deceased are the friends and the deceased visited the house of the petitioners in absence of petitioner no. 1 and thereafter the petitioner no. 1 at the instigation

of the petitioner no. 2 committed murder.

After hearing the respective Counsels and on perusal of the materials on record, it transpires that the deceased visited the house of the petitioners in absence of petitioner no. 1. The petitioner no. 2 narrated the incidents to the petitioner no. 1 and there are incriminating materials against the petitioner no. 1 in commission of offence under Section 302 of the Indian Penal Code.

The petitioner no. 2 has been simply implicated on the ground of instigation but the materials so unearth during investigation appear to be weak and not directly ascribing such role. Furthermore, the petitioner no. 2 is having a nine months old baby, who is living in the correctional home.

We, thus, find sufficient materials to enlarge the petitioner no. 2 on bail and, therefore, the prayer for bail of the petitioner no. 2 is allowed.

Accordingly, the petitioner no. 2, namely, **Pratima Barui**, shall be released on bail upon furnishing a bond of Rs.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, Contai, Purba Medinipur, subject to the condition that the petitioner no. 2 shall appear before the Trial Court on every date of hearing until further orders.

In the event the petitioner no. 2 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.

Since there is a prima facie material found against the petitioner no. 1, which would be evident from the case diary, we do not feel that the petitioner no. 1 should be enlarged on bail.

Accordingly, prayer for bail of the petitioner no. 1 is, thus, rejected.

The application for bail, being CRM 5398 of 2021, is thus **disposed of.**

(Harish Tandon, J)

(Rabindranath Samanta, J.)