

18.11.2021

Court No.28
Item No.57
(REJECTED)

Saswata

CRM 5434 of 2021

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Moyna Police Station Case No. 210 of 2020 dated 05.08.2020 under Sections 498A/304B/34 of the Indian Penal Code;

And

In the matter of : **Prasenjit Manna @ Batakrihna Manna**
...Petitioner

Mr. Ranadep Sengupta
Mr. Sachit Talukdar

...For the Petitioner

Mr. Bidyut Kr. Roy
Miss. Rita Datta

... For the State

The petitioners have filed the instant application for bail under Section 439 of the Code of Criminal Procedure in connection with Moyna Police Station Case No. 210 of 2020 under Sections 498A/304B/34 of the Indian Penal Code.

Learned advocate for the petitioner submits that the wife of the petitioner died of hanging and the case has been initiated by making omnibus allegation against the petitioner and his immediate family members. It is further submitted that the other family members have already been extended the benefit of Section 438 of the Code of Criminal procedure, whereas the petitioner is languishing in jail for nearly 465 days and in view of the omnibus allegation against all, the petitioner is entitled to be released on bail on the ground of parity.

Learned advocate appearing for the State opposes the prayer for bail. It is submitted that the statement of the witnesses, being the neighbours would disclose the role of the petitioner in commission of such offence. It is further submitted that there are incriminating materials against the petitioner and therefore, the prayer for bail

should be rejected.

After hearing respective submission, it transpires from the record that the earlier application for bail filed by the petitioner in CRM 8577 of 2020 was rejected on 10/02/2021. Learned advocate for the petitioner relies upon the order of the Learned Chief Judicial Magistrate passed on 09/09/2020 to corroborate that the other co accused had already been extended the benefit of Section 438 of the Code of Criminal Procedure.

It is beyond the cavil of doubt that the anticipatory bail granted to the other co accused is of the event prior to the rejection of the earlier application for bail filed by the petitioner. Obviously, that was made aware to the coordinate Bench and despite such fact, the coordinate Bench did not find any grounds for release of the petitioner on bail.

Since, we do not find any changed circumstances, subsequent to the rejection of the earlier application filed by the petitioner, we are not inclined to grant bail to the petitioner.

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

The application for bail being CRM 5434 of 2021 is accordingly ***dismissed.***

(Harish Tandon, J)

(Rabindranath Samanta,J.)