

01.12.2021
Item no.23
Court No.32
Avijit Mitra

C.R.M. 6570 of 2021

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure;

And

In Re : Sri Jagai Majhi

.... petitioner

Mr. Sanjib Seth

....for the petitioner

Mr. S.G. Mukherjee,

Mr. Partha Pratim Das,

Ms. Manasi Roy

..... for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Bharatpur Police Station Case No. 333 of 2020 dated 06.12.2020 under sections 498A, 302 and 34 of the Indian Penal Code.

Mr. Seth, learned lawyer for the petitioner submitted, that the present petitioner is in custody for last 280 days. Chargesheet has been submitted; further custodial detention is not necessary; all the co-accused are on bail. Therefore, learned lawyer submitted, that bail should be granted to the present petitioner.

Per contra, learned lawyer, Ms. Roy representing the State submitted, that sufficient incriminating materials are there in the case diary to implicate the present petitioner being the husband. Learned lawyer invited our attention to the dying declaration of the victim where she directly implicates the present petitioner in the commission of crime. She further

invited our attention to the statements of the neighbours which are also incriminatory against the present petitioner. Accordingly, she submitted that the bail should not be allowed to the present petitioner.

We have heard learned advocates appearing for the respective parties and perused the case diary. On perusal of the case diary it appears that there are contradictory dying declarations. In this case chargesheet has been filed. Further custodial detention may not be necessary as investigation is closed. The petitioner is in custody for long. Considering the incriminating materials and on perusal of case diary, we, however, inclined to exercise discretion in favour of the present petitioner.

Accordingly, we allow this application and direct that the petitioner, namely, **Sri Jagai Majhi**, 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 a local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Kandi, Murshidabad and on further condition that the petitioner shall not leave the jurisdiction of Bharatpur Police Station. The petitioner shall also attend the learned trial court on all the dates, as specified for hearing.

The petitioner shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioner fails to comply with the aforesaid directions without any justifiable

cause, the learned trial court would be at liberty to cancel the petitioner's bail without any further reference to this Court.

The application for bail being C.R.M. 6570 of 2021 is disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Sugato Majumdar, J.)

(Tapabrata Chakraborty, J.)