

06.12.2021
Court No.32
Item No. 22
Avijit Mitra

C.R.M. 6778 of 2021 (via video conferencing)

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

And

In Re : Sri Samir Ghosh

Petitioner

Mr. Samiran Mandal,
Mr. Abhinaba Dan,
Mr. Nitish Samanta

For the Petitioner

Mr. S.G. Mukherjee, Ld. P.P.,
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 Taldangra P.S. Case No. 40 of 2021 dated 20.05.2021 under sections 498A/302/34 of the Indian Penal Code.

Mr. Mandal, learned advocate appearing for the petitioner submits that the FIR was registered initially under Sections 498A/302/34 of the Indian Penal Code. Upon completion of investigation, chargesheet has been submitted under Sections 498A/306/34 of the Indian Penal Code. The allegations of instigation against the petitioner is not sustainable. The alleged incident occurred about 16 years after the marriage. In the said conspectus, further detention of the petitioner, who is in custody for more than 200 days, is not warranted, more so when, there is no possibility towards conclusion of the trial, in the near future.

Mr. Mukherjee, learned Public Prosecutor appearing for the State, opposes the petitioner's prayer and draws our attention to several documents in the case diary including the statement of the deceased's son, as recorded under Section 161 of the Code.

Having heard the learned advocates appearing for the respective parties and considering the materials in the case diary, the nature of allegations, the *post-mortem* report, the extent of complicity of the petitioner in the alleged offence and the period of detention, we are of the opinion that further detention of the petitioner is not warranted, more so when upon completion of investigation, chargesheet has been submitted.

Accordingly, we allow this application and direct that the petitioner, namely, **Sri Samir Ghosh**, 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, Khatra, Bankura on further condition that the petitioner shall attend the learned trial court on all the dates, as specified for hearing and shall not intimidate the witnesses 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 his bail without any further reference to this Court.

With the aforesaid observations, the application for bail, being CRM No.6778 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)