

04.01.2021

Item no. 18

Ct.5

CHC

Rejected

C.R.M. No.10746 of 2020

(Physical Hearing)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure in connection with Kalyani Police Station Case No. 415 of 2019 dated 20th September, 2019 under Section 302 of the Indian Penal Code.

And

In the matter of:-

Joydeb Das

... Petitioner

Mr. Shibaji Kumar Das,
Mr. Ahshan Ahmed

.. for the petitioner

Mr. Noguive Ahmed, Ld. A.P.P.
Ms. Amita Gour

..for the State

Mr. Das, learned counsel, appears in support of this application for bail. It is submitted that although the petitioner is accused of committing the alleged offence under Section 302 of the Indian Penal Code, the only chain of circumstances connecting the petitioner to the alleged offence is the 'last seen' principle.

It is submitted that there are three witnesses who claim to have 'last seen' the petitioner with the victim. It is also submitted that the petitioner is in custody for nearly 468 days. It is submitted that the Post Mortem Report reveals that the victim had alcohol content in his stomach. The important element of *mens rea* in committing the offence under Section 302 I.P.C. is also not established.

Per contra, Mr. Ahmed, learned Additional Public Prosecutor (A.P.P.), also relies on the P.M. Report and points out that from the P.M. Report it is affirmed that the victim was throttled to death. It is submitted that one of the witnesses had last seen the petitioner and the victim quarrelling at the place of occurrence.

Having heard the rival submissions and considering the materials placed as well as the gravity of the alleged offence, this Court is not persuaded to grant bail to the petitioner.

However, the learned trial court is requested to expedite the trial subject to its board.

CRM 10746 of 2020 stands, thus, **disposed of**.

All parties shall act in terms of copy of this order downloaded from the official website of this Court.

Urgent Xerox certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Subhasis Dasgupta, J.)

(Subrata Talukdar, J.)

