

CRM (DB) 27 of 2022
(via video conference)

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

And

In Re : Sahadeb Patra

.....Petitioner

Mr. Ayan Basu
Mr. Gautam Banerjee
Mr. Sandip Kumar Mondal
Mr. Sourav Bera
Mr. Sumit Routh

.....for the Petitioner

Mr. Anand Keshari

.....for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Frezarganj Coastal P.S. Case No. 30 of 2019 dated 24.04.2019 under Sections 498A/302/201 of the Indian Penal Code.

Mr. Basu, learned lawyer appearing for the petitioner submitted that the present petitioner is in custody for about two years and five months. The entire case is based on circumstantial evidence and on the statement of the daughter of the accused as well as the victim who never was the eye witnesses in the actual incident. From the statement of the said daughter it appears that the petitioner was last seen with the victim. This apart no concrete evidence is there against the present petitioner. There is no justification of detention the present petitioner in custody after almost 2½ years.

In our query, he further submitted that at the time when the bail was last refused by a coordinate Bench on 18th November, 2021, he did not have a copy of the statement of the daughter of the victim

recorded under Section 164 of the Code of Criminal Procedure. Since he has received a copy of statement and is well apprised of the incriminating materials and is in a better footing on factual aspects of the case. He relies upon the whole facts and circumstances and prays for bail since there is no scope of immediate commencement of the trial.

Per contra, Mr. Keshari, learned lawyer appearing for the State submitted that there are strong incriminating materials which very clearly implicate the present petitioner in the alleged offence apart from the statement of the accused leading to recovery of offensive material. He further submitted that there is no change in circumstances since last refusal of the bail. Accordingly, prayer for bail of the present petitioner is refused.

We have heard rival submissions.

From the record we find that the last bail was rejected on 18th November, 2021. It was observed by the coordinate Bench that based on the statement of the daughter, the petitioner should not be enlarged on bail. We have perused the statement of the daughter, as recorded under Section 161 as well as Section 164 of the Code of Criminal Procedure, both of which corroborate each other in implicating of the present petitioner in the offence. This apart, we also find the statement of the accused leading to recovery of offensive material and the statement of the accused on the nature of fatal injury is corroborated by the post mortem report.

We find that the allegation is very grave and serious and there is no change in circumstance since last rejection of the bail. We cannot rule out possible influence on the witnesses particularly on his own daughter by the accused. Therefore, we are not inclined to

allow the prayer for bail. As such, the prayer for bail is refused at this stage.

The application CRM (DB) 27 of 2022 is, accordingly, dismissed.

We, however, direct that the trial may be expedited.

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.)