

21.02.2022
Court No.32
Item No. 47
Avijit Mitra

C.R.M. (DB) No.126 of 2022

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Nadanghat Police Station Case No.331 of 2021 dated 09.10.2021 under section 302 of the Indian Penal Code;

And

In Re : Hejabulla Sekh @ Hejbulla @ Heju
Petitioner

Mr. Sandipan Ganguly, Sr. Adv.,
Ms. Karabi Roy

For the Petitioner

Mr. Tapandeb Nandy,
Mr. Antarikhya Basu

For the State

Mr. Ganguly, learned senior advocate appearing for the petitioner submitted that there are discrepancies in the investigation of this case. Statement of one witness, which was recorded under Section 164 of the Code of Criminal Procedure two months after the incident, stated therein that the petitioner and the victim were last seen prior to death of the victim. He also submitted that there must be a reasonable proximity of time between death and last seen. However, Mr. Ganguly further submitted that investigation is complete and the present petitioner is in custody for about 140 days and there is no chance of immediate commencement of trial. Some reports are pending and accordingly, petitioner may be granted bail on any stringent condition.

Mr. Basu, learned advocate appearing for the State invited our attention to the statement of the witnesses recorded under Section

164 of the Code of Criminal Procedure as well as the confessional statement of the accused leading to recovery of offensive articles on the basis of which he submitted that strong incriminating materials are there against the present petitioner from which it can reasonably be presumed at this stage that the alleged offence was done by the present petitioner. Accordingly, bail application is strongly opposed.

We have heard the rival submissions and perused the case diary. On perusal of the statement of the witnesses as recorded under Section 164 of the Code, report of the T.I. parade, seizure list and the statements of other witnesses, we find strong incriminating elements are there against the present petitioner. The offence is grave and serious and materials are there to indicate the petitioner's complicity in the alleged crime. On perusal of case diary and other materials, we are not inclined to allow the instant bail application.

Accordingly, the application for bail, being CRM (DB) No. 126 of 2022, is dismissed.

However, we direct the learned Additional Chief Judicial Magistrate, Kalna to commit the matter before the learned Sessions Judge within a period of 15 days preferably from the date of communication of this order so that trial may be expedited, if charge is so framed.

Learned Registrar Administration (L&OM) is directed to communicate this order to the learned Additional Chief Judicial Magistrate, Kalna.

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)

