

CRM (DB) 132 of 2022

(via video conference)

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

And

In Re : Ohida Bibi @ Ashida Bibi @ Ahida Bibi

.....Petitioner

Mr. Angshuman Chakraborty

Mr. S. S. Saha

Mr. Ashutosh Mandal

.....for the Petitioner

Mr. Binay Panda

Mr. S. K. Bhagat

.....for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Kashipur P.S. Case No. 301 of 2021 dated 27/06/2021 under Sections 302/34 of the Indian Penal Code.

Mr. Chakraborty, learned advocate appearing for the petitioner submits that there was a dispute amongst the parties as regards the share of a transaction amount. No specific overt act has been attributed to the petitioner. The principal accused is the petitioner's husband. The petitioner has already suffered long incarceration for about 241 days. Upon completion of investigation, charge sheet has also been submitted and as such, further detention may not be necessary.

Mr. Panda, learned advocate appearing for the State opposes the petitioner's prayer and submits that the petitioner had direct involvement in the alleged offence. He actively helped the

principal accused, as would be explicit from the statement of the witnesses, as recorded under Section 161 of the Code.

Heard the learned advocates appearing for the respective parties.

The statements of the witnesses, as recorded under Section 164 of the Code as well as the statement of the daughter of the petitioner, *prima facie*, do not attribute any specific overt act to the petitioner. However, the petitioner's daughter had categorically stated that her father had committed the alleged offence. In the statements of the witnesses, as recorded under Section 161 of the Code, *prima facie*, there are inconsistencies as regards the participation of the petitioner in the alleged offence.

Considering the period of detention already suffered by the petitioner, the manner in which the offence has taken place and the possible extent of complicity of the petitioner in the alleged offence, we are of the opinion that further detention is not necessary *moreso* when investigation is complete. The petitioner is a female family member and *prima facie*, there is no possibility that she would flee from justice or delay the trial by abscondence. In view thereof, her prayer for bail is allowed.

Accordingly, we allow this application and direct that the petitioner, namely, **Ohida Bibi @ Ashida Bibi @ Ahida Bibi**, 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 Chief Judicial Magistrate, South 24 Parganas, Alipore with a further direction that she shall

not leave the jurisdiction of Kashipur Police Station until further orders.

The petitioner shall attend the learned Court below 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 her bail without any further reference to this Court.

With the aforesaid observations, the application for bail, being CRM (DB) 132 of 2022, 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.)