

02.02.2022

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Ct. No. 29

**KAUSHIK
REJECTED**

C.R.M.(DB) 171 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Liluah** Police Station Case No. **209** of **2019** dated **25.08.2019** under Sections 498A/302/304B of the Indian Penal Code and Sections 3/ 4 of the D.P. Act.

And

In Re : Ranjit @ Ranajit Das

..... petitioner

Mr. Milon Mukherjee, Sr. Advocate

Mr. Soumya Basu Roy Chowdhury

.....for the petitioner

Ms. Faria Hossain

Ms. Baisali Basu

....for the State

Petitioner renews the prayer for bail.

Learned senior advocate appearing for the petitioner submits that, the petitioner is in custody in excess of three years. He refers to the dying declaration of the deceased. He submits that, the dying declaration was recorded by a Sub-Inspector of Police with the person making dying declaration suffering from 100 per cent burn injuries. He highlights the fact the witnesses of the dying declaration are interested witnesses. Learned senior advocate for the petitioner invites the Court to consider the statement recorded by the doctors treating the deceased at the hospital.

Learned advocate appearing for the State draws the attention of the Court to the contents in the case diary including the dying declaration.

The dying declaration was recorded by the Sub-Inspector of Police in presence of two witnesses. The evidentiary value of the dying declaration is the subject matter of the trial. The dying declaration by itself implicates the petitioner.

Two doctors recorded their statements under Section 161 of the Code of Criminal Procedure (Cr.P.C.). The two doctors stated that the deceased was speaking and that the doctors were unable to understand what the deceased was saying. Therefore, at this stage, the issue as to whether the deceased was in a position to speak so that a dying declaration could be recorded need not be decided finally. It cannot be said with certitude that the deceased was not in a position to speak or to make a dying declaration. A dying declaration recorded by a police personal ipso facto cannot be discounted merely because the dying declaration was recorded by an official.

Considering the gravity of the offence and the complicity of the petitioner therein as it transpires from the materials in the case diary, we are unable to grant bail to the petitioner. Moreover, there is hardly any change in circumstances subsequent to the last order of rejection.

Accordingly, prayer for bail of the petitioner is rejected and the application being CRM (DB) 171 of 2022 is dismissed.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)