

Via video conference

28.02.22

(S.R.)

Sl.54

Ct.32

In re: An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with **Hirapur** Police Station Case No.302 of 2020 dated 30.12.2020 under Sections 498A/304B/302/34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act;
And

In re: Tapas Pal @ Jayanta Pal

... petitioner.

Mr. Apurba Kumar Datta

... for the petitioner.

Ms. Faria Hossain

Mr. Aniket Mitra

...for the State.

Mr. Datta, learned lawyer appearing for the petitioner submitted that the present petitioner is in custody for 424 days. Charge sheet has been filed. Further custodial detention is not necessary. Death in this case took place four years after the marriage. The present petitioner is the brother-in-law, who has no active participation or complicity in the alleged offence but rather he is falsely implicated. Since, custodial detention is not necessary, he prayed for bail on any stringent condition.

Mr. Mitra, learned lawyer appearing for the State strongly opposed the bail application on the ground that strong incriminating elements are there against the present petitioner and the allegation is grave and serious in nature.

We have heard rival submissions and perused the case diary. We have also perused the statements of the witnesses.

It appears from the neighbours' statements, namely, Joshna Maji and Champa Loth, who came to rescue the victim, that the present petitioner tried to save the life of the victim by pouring water while her person was on fire. The statement of the accused implicates his own mother. No dying declaration is there. No statement of the witnesses

recorded under Section 164 of the Code. On perusal of the case diary and other materials and considering the extent of complicity of the present petitioner in the alleged offence and also considering the fact that he tried to save the life of the victim, we are inclined to allow bail, more so when he is in custody for more than 400 days and investigation is complete.

Accordingly, the present petitioner be enlarged on bail on furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the Learned Chief Judicial Magistrate, Paschim Bardhaman, Asansol, with a further condition that the petitioner shall attend the Learned Court below on all the dates, as specified for hearing.

It is further directed that the petitioner 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 the petitioner's bail without any further reference to this Court.

The application for bail being CRM(DB) No.208 of 2022 is, accordingly, 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.)