

12.07.2022.

15.

Ct.No.28

as

(Rejected)

C.R.M. (DB) 1104 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Deganga P.S. Case No.646 of 2016 dated 21.09.2016 under Sections 498A/326/307/34 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act and charge sheet submitted under Sections 498A/304B/302/34 of the Indian Penal Code.

In the matter of : Gopal Mistri.

... Petitioner.

Mr. Angshuman Chakraborty.

...for the Petitioner.

Mr. Rudra Dipta Nandy, Id. A.P.P.,
Mr. Binay Panda,
Ms. Puspita Saha.

...for the State.

Heard the learned Advocates appearing for the parties.

Superintendent of Police, Barasat Police District, North 24-Paraganas is present in person. He has submitted a report explaining steps taken by him for prompt examination of the witnesses.

It appears from the report prosecution witnesses were summoned and appeared in court. Due to cease work on 5.7.2022 and thereafter suspension of work witnesses could not be examined. Next schedule has been fixed on and from 16.8.2022 for examination of the witnesses.

In view of the aforesaid, we are of the opinion steps have been taken for examination of the remaining witnesses

particularly the medical officer who recorded the dying declaration of the deceased. We hope and trust the next schedule for examination of prosecution witnesses be strictly adhered to.

Trial court may resort to video conferencing facilities for examination of the out-station witness, if necessary.

We have considered the materials on record prima facie implicating the petitioner in the murder of his wife. Allegation is grave and sufficient evidence has also transpired against the petitioner.

Hence, we are not inclined to grant bail to him.

Accordingly, the prayer for bail of the petitioner is rejected.

Trial court shall take all endeavour for prompt examination of the remaining prosecution witnesses and conclude the trial at the earliest preferably within six months from the next date fixed for recording evidence without granting unnecessary adjournment to either of the parties.

Parties shall co-operate with the trial court in that record.

Copy of the order be communicated to the trial court for due compliance.

Presence of the Superintendent of Police, Barasat Police District, North 24-Paraganas is noted and dispensed with.

We have noted with concern the sad state of affairs in the present case which is contributed to the delay in trial.

Prosecuting as well as the investigating agency was unaware of the whereabouts of the most vital witness viz., medical officer who recorded dying declaration of the victim. Investigating officer was also not available to depose in the case.

This state of affairs would not have come into being if the directions given by this Court in CRR 2434 of 2017 with regard to maintenance of records regarding whereabouts of witnesses particularly official witnesses had been adhered to.

Learned Additional Public Prosecutor submits charge sheet had been filed in the present case in 2016. This is of little consequence as the responsibility of the investigating agency does not come to an end with filing of police report. Till conclusion of trial, it is the continuing duty of the investigating agency to aid the prosecution by ensuring prompt attendance of witnesses particularly official witnesses.

In order to ensure unavoidable delay in trial due to non-attendance of official witnesses, we direct the Principal Secretary, Home, Government of West Bengal and Director General and Inspector General of Police, West Bengal to submit report with regard to compliance of the directions in CRR 2434 of 2017.

Investigating Officer is also directed to be present personally with compliance report on the next date of hearing.

Copy of this order be communicated to the Principal Secretary, Home, Government of West Bengal and Director

General and Inspector General of Police, West Bengal for necessary compliance.

Let this matter appear on 26th July, 2022.

(Ananya Bandyopadhyay,J.)

(Joymalya Bagchi, J.)