

CRM (DB) 1921 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Debra Police Station Case No. 576 of 2020 dated 29.12.2020 under Sections 302/34 of the Indian Penal Code.

And

In Re : Nakul Sardar & Anr. petitioners

Mr. Noni Gopal Chakraborty

.....for the petitioners

Ms. Zareen N. Khan

Md. Kutubuddin

..... for the State

Petitioners are in custody for over 500 days.

Learned Counsel appearing for the petitioners submits that victim died due to epilepsy.

Learned Counsel appearing for the State opposes the prayer for bail and submits that the victim was assaulted by the petitioners. Marks of injuries are noted in the postmortem report.

We have considered the material on record. Statements of witnesses disclose role of the petitioners in the assault of the victim. However, it is opined in the postmortem report that death was due to “disease condition” of the victim. Other materials on record show that the victim was suffering from epilepsy.

Whether conduct of the petitioners in the aforesaid factual background would constitute offence under Section 302 of the Indian Penal Code requires to be assessed during trial.

Hence, in the facts and circumstances of the case the particularly in view of the opinion of the postmortem doctor and the period of detention suffered by the petitioner i.e. over 500 days, we are inclined to grant bail to them.

Accordingly, we direct that the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/-(Rupees Ten Thousand Only) each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Paschim Midnapur, subject to the condition that the petitioners shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioners fail to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel their bail automatically without further reference to this Court.

The application for bail is, accordingly, allowed.

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)