

21.06.2022
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allowed

CRM(DB) 1923 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Sandeshkhali Police Station Case No. 69 of 2021 dated 10.04.2021 under Sections 302/201/120B of the Indian Penal Code.

And

In Re : Saidul Molla petitioner

Mr. Satadru Lahiri
Mr. Safdar Azam

.....for the petitioner

Ms. Anasuya Sinha
Mr. Pinak Kumar Mitra

..... for the State

Petitioner is in custody for 304 days.

Learned Counsel appearing for the petitioner submits that there is no direct evidence connecting the petitioner with the crime. Out of suspicion he was arrested on 24th August, 2021 i.e. four months after recovery of the dead body. Recovery of weapon of offence was also belatedly made from a pond accessible to all. Accordingly, he prays for bail.

Learned Counsel appearing for the State opposes the prayer for bail. She submits the petitioners and victim had rivalry as both of them were involved with the same woman. They were last seen together and on the leading statement of petitioner weapon of offence was recovered.

We have considered the materials on record. Incident occurred in April, 2021. Petitioner was arrested after four months in August, 2021. Statements of the witnesses who speak of the petitioner being last seen with the victim were also recorded after

a lapse of four months. Similarly, weapon of offence was belatedly recovered from a pond which is accessible to all. In view of inordinate delay in recording statements of the witnesses relating to a vital circumstance, namely, “last seen theory” and as the recovery of weapon of offence is also after four months of the incident from a place which is accessible to all, we are of the opinion the veracity of the aforesaid incriminating circumstances require to be assessed in the light of the attending facts and circumstances of the case during trial and the petitioner may be released on bail.

Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/-(Rupees Ten Thousand Only) with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Basirhat, North 24 Parganas, subject to the condition that the petitioner shall appear before the learned trial court on every date of hearing until further orders and shall not intimidate witnesses and/or tamper with evidence in any manner whatsoever.

In the event, the petitioner fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel the bail of the petitioner in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed.

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)

