

12.08.2022.
17.
Ct.No.28
as
(Rejected)

C.R.M. (DB) 2614 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Gangnapur P.S. Case No.119 of 2022 dated 21.04.2022 under Sections 341/342/306/34 of the Indian Penal Code.

In the matter of : Saiful Daptari @ Sahidul & Anr.
....Petitioners.

Mr. Sayan De,
Mr. Sayan Kanjilal,
Mr. Kaustav Shome.
...for the Petitioners.

Ms. Zareen N. Khan,
Mr. Arup Sarkar.
...for the State.

Mr. Suman Das.
...for the de-facto complainant.

Heard the learned Advocates appearing for the parties.

Petitioners are in custody for about 110 days. It is submitted that they have been falsely implicated in the instant case. Allegation of forcible rape on the victim is not supported by medical evidence. Victim was caught in a compromising position with a local boy viz., Israfil Mondal @ Fule. Out of shame she consumed poison. There is delay in lodging the first information report.

Learned Advocate for the State opposes the prayer for bail. She submits petitioners and others are local musclemen who misbehaved with the wife detained her for awarding punishment. They prevented her parents to take her away. Due to such pressure, victim committed suicide.

Learned Advocate for the de-facto complainant opposes the prayer for bail. He submits petitioners are influential

persons in the locality. They had set up a kangaroo court and detained the victim for awarding punishment upon her. Even her parents were prevented from taking her back to her father's residence. They poured poison in the mouth of the victim. Due to fear there was delay in lodging the first information report. Police did not conduct a fair and impartial investigation and had submitted charge sheet for abetment of suicide though the victim was murdered. Vital witnesses were not examined during investigation. Threats had been held out to the de-facto complainant and other witnesses. They have lodged complaint but no steps have been taken.

We have considered the materials on record. De-facto complainant lodged first information report alleging that her daughter had been raped and wrongfully detained by the petitioners. When they came to the spot to take her away, petitioners and other accused persons poured poison in her mouth. As a result, she died. Out of fear there was delay in lodging the first information report. Due to indifferent investigation, de-facto complainant filed a writ petition being WPA 7257 of 2022 wherein a learned Single Judge of this Court after considering the materials on record directed the charge sheet to be filed in the case immediately. Thereafter, charge sheet in the case was filed alleging commission of offence punishable under Section 306 of the Indian Penal Code.

It is strenuously contended by the learned Advocate for the petitioners that the allegation of rape is out and out false and there is no material to show they had murdered the victim.

We have considered the materials collected during investigation in the backdrop of the aforesaid circumstances. What emerges therefrom is that the deceased was a married lady. She had developed an illicit relation with one Israfil Mondal @ Fule. Petitioners are local leaders who intervened in the matter. They harassed the victim and detained her for holding a kangaroo court to award punishment upon her. Her parents came to the village and requested the petitioners and other accuseds to release their daughter. Petitioners and other accused persons refused to do so. During the commotion there were shouts that victim has consumed poison. Victim was taken to a hospital where she breathed her last on 14.3.2022.

Though there is some confusion whether the victim took poison or the same was administered by the petitioners and other accused persons, it is undeniable that the petitioners had acted as self-appointed guardians of society who subjected the victim to undue harassment and humiliation. She was wrongfully detained. Even her parents who came to rescue her were driven away. Petitioners took the law in their hands and subjected the victim to immense harassment and humiliation. Unable to bear such overwhelming threat and harassment, victim appears to have committed suicide. A prima facie case of abetment of suicide is made out against the petitioner.

Conduct of the investigating agency does not appear to be above reproach. While the charge sheet has been filed under Section 306 of the Indian Penal Code against the petitioners and co-accuseds, we are at a loss to understand why the quack doctor who had also treated the victim has been arrayed as an

accused under Section 304 of the Indian Penal Code. These circumstances give rise to an inference of strong influence of the petitioners and other accused persons upon the investigation process.

Learned Advocate for de-facto complainant has also urged that his client and his family members have been threatened.

In the light of the materials on record, we are of the opinion it may not be prudent to release the petitioners on bail at this stage.

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

(Ananya Bandyopadhyay,J.)

(Joymalya Bagchi, J.)