

19.01.2022
Court No.32
Item No. 276
Avijit Mitra

C.R.M. 7944 of 2021 (Through video conference)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure ;

And

In Re : Partha Sarkar

.... petitioner

Mr. Sourav Chatterjee

...for the petitioner

Mr. Neguive Ahmed

...for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioners in connection with Gazole Police Station Case No.346 of 2020 dated 05.08.2020 under sections 498A/304B/34 of the Indian Penal Code.

Mr. Chatterjee, learned advocate appearing for the petitioner submits that the ingredients of Section 304B of IPC are not attracted against the petitioner. The petitioner's wife committed suicide about 6 years after the marriage. In support of such contention he has drawn the attention of this Court to the victim's statement as recorded by the Medical Officer.

He further submits that the petitioner has already suffered long incarceration for about 516 days. There is also no possibility towards conclusion of the trial in the near future. In the said

conspectus, the petitioner may be enlarged on bail on any stringent condition.

Mr. Ahmed, learned advocate appearing for the State vehemently opposes the petitioner's prayer and draws our attention to several documents in the case diary, including the statement of the victim's child and other witnesses, as recorded under Section 161 of the Code.

He further submits that petitioner's earlier prayer for bail was rejected by a Coordinate Bench and there had been no substantial change in the circumstances subsequent to such dismissal. In the event the petitioner is enlarged on bail, he may influence the witnesses. In view of strong incriminating materials on record against him, the petitioner is not entitled to the relief.

Heard the learned advocates appearing for the respective parties and considered the materials in the case diary.

It appears that the alleged incident occurred on 3rd August, 2021 and the victim expired on 15th August, 2021. We do not find any material to the effect that there was any demand for dowry and as such, *prima facie*, the ingredients of Section 304B of IPC are not attracted against the petitioner. Considering the period of detention already suffered by the petitioner and the extent of his complicity in the alleged offence, we are of the opinion that further detention is not warranted more so when, upon completion of investigation chargesheet has been submitted.

Accordingly, we allow this application and direct that the petitioner, namely, **Partha Sarkar**, shall be released on bail upon

furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be a local, to the satisfaction of the learned Chief Judicial Magistrate, Malda with a further condition that the petitioner shall not enter the jurisdiction of Gajole Police Station save and except for meeting with the Officer-in-Charge, Gazole Police Station once a fortnight until further orders. He shall also intimate the address where he would be residing to the Officer-in-Charge, Gazole Police Station.

The petitioner shall attend the learned Court below on all the dates, as specified for hearing and 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.

With the aforesaid observations, the application for bail, being CRM No.7944 of 2021, is disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Ajoy Kumar Mukherjee, J) (Tapabrata Chakraborty, J)