

09.02.2022

Court No.32
rpan / **283**

CRM 8053 of 2021

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

and

In Re. : **Somnath Shaw @ Mithun Shaw**

- Petitioner.

Mr. Sudip Ghosh Chowdhury,

Mr. Rameshwar Sinha,

Mr. Argha Das,

Mr. Abhishek Bose

... for the Petitioner.

Mr. Saswata Gopal Mukherjee, Ld. P.P.,

Ms. Faria Hossain,

Mr. Anand Kesari

... for the State.

The present application for bail under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Dhaniakhali Police Station Case No.125 of 2021 dated 04.06.2021 under Sections 498A/302 of the Indian Penal Code, 1860.

Mr. Ghosh Chowdhury, learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated in an incident which occurred eight years after the marriage. The complaint was lodged about 102 days after the alleged incident and there is no explanation towards such delay. Upon completion of investigation charge sheet has been submitted and as such, further detention of the petitioner, who has already suffered incarceration for about 251 days, may not be necessary when charges have not yet been framed and there is no possibility towards early conclusion of the trial and he may be enlarged on bail on any stringent condition.

Ms. Hossain, learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to the statements of the witnesses including the child of the victim, as recorded under Section 161 of the Code as well as the post-mortem report. She submits that the victim was strangled and in view of such grievous offence, the petitioner is not entitled to the relief as prayed for.

Heard the learned advocates and considered the materials in the case diary.

Prima facie, it appears that the case is based on circumstantial evidence. The petitioner has already suffered incarceration for 251 days. Upon completion of investigation charge sheet has also been filed. Considering the delay in lodging the complaint, the possible extent of complicity of the petitioner in the alleged offence, the period of detention and the stage of the proceedings, we are of the opinion that further detention of the petitioner is not warranted. However, his movement needs to be restricted.

Accordingly, we allow this application and direct that the petitioner, namely **Somnath Shaw @ Mithun Shaw**, 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, Hooghly with a further condition that he shall not enter the jurisdiction of Dhaniakhali Police Station until further orders and he shall also intimate the address where he would be residing to the Officer-in-Charge of Dhaniakhali Police Station immediately.

It is further directed that the petitioner shall attend the learned court below on all the dates specified for hearing and shall not tamper with the evidence and/or intimidate the witnesses in any manner whatsoever.

In the event the petitioner fails to comply with the aforesaid directions, without any justifiable cause, the learned court below shall be at liberty to cancel his bail, in accordance with law, without further reference to this Court.

With the aforesaid observations, the application for bail, being C.R.M. 8053 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.

(Sugato Majumdar, J.)

(Tapabrata Chakraborty, J.)