

31.01.2022

Court No.32
rpan/ **12**

CRM 8442 of 2021

[Through Video Conferencing]

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

And

In Re : **Mostafa Shaikh**

- Petitioner

Ms. Minoti Gomes

Mr. Jisan Iqubal Hossain

... for the Petitioner.

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

Ms. Faria Hossain,

Mr. Aniket Mitra

... for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Kaliganj Police Station Case no.84 of 2021 dated 26.02.2021 under Sections 498A/302/304B/34 of the Indian Penal Code, 1860 and Sections 3/4 of the Dowry Prohibition Act, 1961.

Ms. Gomes, learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated in an incident which occurred about four months after his marriage. Her wife committed suicide. No specific overt act has been attributed to the petitioner. The petitioner's mother had already been granted anticipatory bail by a coordinate Bench of this Court. Upon completion of investigation charge sheet has also been submitted. As such, further detention of the petitioner, who is in custody for more than seven months, may not be necessary.

Mr. Mukherjee, learned Public Prosecutor appearing for the State opposes the petitioner's prayer and draws our attention to the statements of the witnesses as recorded under Section 161 of the Code as well as the post-mortem report.

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

A perusal of the post-mortem report reveals that death was due to asphyxia following *ante mortem* hanging by neck, which is suicidal in nature. Considering the manner in which the offence has taken place and the period of detention already suffered by the petitioner, we are of the opinion that further detention of the petitioner is not warranted.

Accordingly, we allow this application and direct that the petitioner, namely, **Mostafa Shaikh**, 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, Krishnagar at Nadia.

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 CRM No.8442 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)