

07.02.2022

Item no.39
Court No.32
Avijit Mitra

C.R.M. 8819 of 2021 (Through video conference)

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with Kandi Police Station Case No.498 of 2020 dated 14.11.2020 under Sections 325, 326 and 34 of the Indian Penal Code and added Section 302 of the Indian Penal Code.

And

In Re : Nasirun Sk. @ Nasirun Bibi

.... petitioner

Mr. Sanjib Seth

....for the petitioner

Mr. Rudradipta Nandy

....for the State

Mr. Seth, learned lawyer appearing for the petitioner submitted that the petitioner is a lady who is in custody for about 375 days but he candidly admitted that earlier bail application was rejected on 16th November, 2021 by a Coordinate Bench of this Court. However Mr. Seth relies upon the deposition of *de facto* complainant where nothing incriminatory is there against the present petitioner. Relying on that deposition, Mr. Seth renewed his prayer for grant of bail.

Per contra, learned lawyer appearing for the State Mr. Nandy submitted, that very strong incriminating elements are there against the petitioner, even though she is a lady, as transpired from the statement of the witnesses recorded under Section 164 of the Code of Criminal Procedure. Trial is going on and it is not safe to come to a definite conclusion on innocence of the petitioner depending upon single witness being the *de*

facto complainant. Accordingly, Mr. Nandy opposed the bail application.

We have heard the rival submissions and perused the case diary. After rejection of the last bail application by a Coordinate Bench of this Court, no new development took place warranting reconsideration of the prayer for bail. The deposition of the *de facto* complainant cannot be looked into to decide on merit at this stage. The statement of other witnesses as recorded under Section 164 of the Code of Criminal Procedure are not only strongly incriminatory but shows direct complicity of the present petitioner in the alleged crime. Trial is going on. Therefore it is not proper to state that trial will be delayed. Considering the seriousness of the offence and its gravity and the fact that after rejection of the earlier bail application there is no change in the circumstances, we are not inclined to allow the bail application and the same is rejected at this stage.

The application for bail being CRM No.8819 of 2021 is, dismissed.

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.)

