

13.09.2022.
17.
as
(Allowed)

C.R.M. (DB) 3089 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Hariharpara P. S. Case No.200 of 2022 dated 10.05.2022 under Sections 498A/302/34 of the Indian Penal Code and charge sheet submitted under Sections 498A/302/34 of the Indian Penal Code.

In the matter of : Orsad Ali Mondal @ Hena @ Oarsad
Ali Mondal. Petitioner.

Mr. Somnath Adhikary.
...for the Petitioner.
Mr. Debabrata Chatterjee, Id. A.P.P.
Ms. Mausumi Sarkar.
...for the State.

Petitioner is in custody for 97 days. It is contended there is inordinate delay in lodging the first information report. Investigation is complete. He prays for bail.

Learned Advocate for the State opposes the prayer for bail. He submits adequate explanation for delay has been given by the de-facto complainant. Son of the victim stated petitioner had committed murder of his wife.

We have considered the materials on record. There is delay in lodging the first information report. Whether the explanation offered by the de-facto complainant is acceptable requires to be assessed during trial. Statement of the minor son with regard to homicidal death has not been accepted and charge sheet has been filed under Section 306 of the Indian Penal Code. Incident occurred ten years after marriage and statutory presumptions under Sections 113A and 113B of the Evidence Act are not attracted.

Under such circumstances, we are inclined to grant bail to the petitioner.

Accordingly, the petitioner 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 local, to the satisfaction of the learned Chief Judicial Magistrate, Murshidabad at Berhampore subject to condition that the petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to appear before the Trial Court without any justifiable cause, the trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

The application for bail is, thus, disposed of.

(Ajay Kumar Gupta,J.)

(Joymalya Bagchi, J.)