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(Allowed)

**C.R.M. (DB) 3082 of 2022**

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Chinsurah P. S. Case No.295 of 2021 dated 13.07.2021 under Sections 302/34 of the Indian Penal Code.

In the matter of : Puchi Das @ Samaresh.

.... Petitioner.

Mr. Suman Chakraborty.

...for the Petitioner.

Mr. Madhusudan Sur, Id. A.P.P.,  
Mr. Dipankar Paramanick.

...for the State.

Petitioner renews his prayer for bail. He submits there is no progress in the matter since the rejection of bail by this Court in July, 2022.

Learned Advocate for the State opposes the prayer for bail. He submits investigating agency had prayed for discharge of the petitioner and one Bittu Das. Learned Magistrate refused the prayer and issued warrant of arrest. Petitioner was arrested in execution of the warrant. Bittu Das is still absconding. Investigating Officer is present and has submitted report in support of such submission.

We have considered the materials on record. First information report was lodged by mother of the deceased. In the FIR, it was alleged four persons viz., Arun Paswan @ Nera, Anupam Das @ Chhottu, Bittu Das and the petitioner had come and taken away the victim from the residence. De-facto

complainant was not present in the house and had heard the incident from her mother. In course of investigation, statement of the mother of the de-facto complainant was recorded under Section 164 of the Code of Criminal Procedure. She has only referred to Arun Paswan @ Nera and Anupam Das @ Chhottu as the abductors. Statements of local witnesses implicate the aforesaid persons only. As the allegations in the FIR raised suspicion, the court below refused to discharge the petitioner and Bittu Das from the case. Warrant of arrest was issued. Petitioner has been arrested in execution of such warrant.

In the aforesaid factual matrix, we are of the view action of the court in refusing to discharge the accused persons cannot be said to be wholly without jurisdiction. However, consideration of bail stands on a different footing. Allegation in the first information report is at variance with the statements of the witnesses i.e. grand mother of the deceased who was present in the house at the time when victim was abducted. We are informed co-accused is absconding. Co-accused is not a relation of the petitioner. Effort to apprehend him may not require further custodial detention.

In view of the aforesaid dichotomy and as there is hardly any progress in the matter since the rejection of bail by this Court, 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, Hooghly subject to

condition that he 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.

Personal appearance of the Investigating Officer is noted and dispensed with.

The application for bail is, thus, disposed of.

**(Ajay Kumar Gupta,J.)**

**(Joymalya Bagchi, J.)**