

11.02.2022

Court No.32

rpan / **37**

SM,J.

C.R.M. 9040 of 2021

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

And

In Re. : **Haydar Ali Mondal**

- Petitioner

Mr. Md. Sarwar Jahan,
Mr. Maidul Islam Kayal
... for the Petitioner.

Ms. Faria Hossain,
Mr. Aniket Mitra,
Ms. Sonali Das
... for the State.

The present application has been filed by the petitioner in connection with Uluberia Police Station Case no.175 of 2021 dated 21.05.2021 under Sections 498A/304B/302/34 of the Indian Penal Code, 1860, [charge sheeted under Sections 498A/304B/34 of the Indian Penal Code, 1860 and Section 4 of the Dowry Prohibition Act], praying for bail.

Mr. Jahan, learned lawyer for the petitioner submitted that it is a sad case of suicide committed by the wife after a hot altercation with her husband, being the petitioner herein. There is no incriminating element against the present petitioner as the victim has committed suicide on her own. Allegations are false, frivolous and inflated. Investigation is complete and chargesheet has been filed. The present petitioner is in custody for 232 days. There is no justification in keeping the petitioner in further custody. Accordingly, he prayed for bail.

Per contra, Mr. Mitra, learned lawyer representing the State submitted that there are incriminating elements against the present petitioner and the statements of the witnesses recorded under Section 161 of the Cr.P.C. indicate that the present petitioner along with others used to inflict tortures upon the victim which led her to commit suicide. Accordingly, bail is strongly opposed by Mr. Mitra.

We have heard the rival submissions and perused the C.D. The allegations are omnibus in nature. No overt act is attributable to the present petitioner, although evidence of altercations are there, *prima facie*. No material is there in the record to show that the death is homicidal. We are also not able to find any incriminating material attributing any overt culpable act to the petitioner. Since chargesheet has been filed, further custodial detention of the petitioner is not necessary.

Therefore, considering the gravity of the offence, the extent of incriminating elements, role of the petitioner and the fact that chargesheet has been filed, we are inclined to allow the present bail application of the present petitioner, namely, **Haydar Ali Mondal** on 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 Additional Chief Judicial Magistrate at Uluberia.

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 9040 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)