

11.11.2022.
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as
(Allowed)

C.R.M. (DB) 3871 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Sankrail P. S. Case No.11 of 2019 dated 21.01.2019 under Section 302 of the Indian Penal Code.

In the matter of : Gopal Maity.

.... Petitioner.

Mrs. Rituparna De Ghosh.

...for the Petitioner.

Mr. Saibal Bapuli, Id. A.P.P.,
Mr. Soumik Ganguli.

...for the State.

Mr. Debasish Chattopadhyay,
Mr. Loknath Paul,
Mr. Tirthankar Basu.

...for the de-facto complainant.

Petitioner renews his prayer for bail. He submits the incident occurred in the course of a sudden altercation. Petitioner did not intend to murder the deceased. Nature of weapon used is unclear. There is hardly any progress in the matter since rejection of bail by this Court. He is in custody for more than three years.

Learned Advocate for the State opposes the prayer for bail and submits report with regard to the progress of the case. We note two witnesses have been examined till date. He further submits petitioner had assaulted the deceased which resulted in his death.

Learned Advocate for the de-facto complainant opposes the prayer for bail. He submits trial is in progress. There is chance that the witnesses may be intimidated.

We have considered the materials on record. Petitioner is in custody for more than three years. Only two witnesses have been examined till date and there is no possibility of the trial concluding in the near future. Statements of the witnesses show there was altercation between the parties. Petitioner had struck with the backside of an axe which probabalises the submission with regard to lack of intention to cause death. Nature of weapon used as narrated by witnesses are at variance with the finding of the of the post mortem report.

We are also of the opinion notwithstanding protracted detention, progress in the trial is not satisfactory. Concern expressed by the de-facto complainant with regard to intimidation of witnesses may be addressed through appropriate directions.

Under such circumstances, we are of the opinion petitioner may be released on bail, however, subject to strict conditions.

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 Additional Chief Judicial Magistrate, Jhargram, Paschim Medinipur 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 and on further condition that the petitioner while on bail shall not enter the jurisdiction of Sankrail Police Station except for the purposes of

investigation and/or attending court proceeding and shall provide the address where he shall reside while on bail to the Investigating Officer as well as the court below and report to the Officer-in-charge of the concerned Police Station within whose jurisdiction he shall reside once in a week until further orders.

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.)