

21.10.2022

Item No.2.

G.S.Das/

Mithun

Ct.28.

CRM (DB)/3682/2022

In Re: An application for bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with Chanchal Police Station Case No.487 of 2022 dated 14.05.2022 under Sections 341/323/325/302/506/34 of the Indian Penal Code corresponding to G.R. No.1156 of 2022.

And

In the matter of : **Sajahan @ Md. Sajahan.**

...petitioner.

Mr. Rana Mukherjee, Adv.

Ms. Rita Patra, Adv.

Mr. Mirza Firoj Ahmed Begg, Adv.

...for the petitioner.

Mr. Joydeep Roy, Adv.

Ms. Manasi Roy, Adv.

...for the State.

The petitioner arrested in connection with Chanchal Police Station Case No.487 of 2022 dated 14th May, 2022 on 15th May, 2022 for committing offence under Section 302 of the Indian Penal Code read with other cognate penal provision. It is submitted by the learned Advocate for the petitioner that as per the allegation of the prosecution, the deceased was assaulted by Hasua and a wooden batten resulting his death. The Post Mortem report is absolutely silent with regard to the fatal blow causing death of the deceased. From the statement recorded under Section 164 of the Code of Criminal Procedure of one of the eye witnesses, the name of the petitioner transpires but specific role in committing the alleged offence has not been stated. It is also stated by the learned Advocate for the petitioner that the alleged incident took place during scuffle at the heat of the moment and at best the accused should be held to be committed an offence punishable under Section 304 of the Indian Penal Code.

Learned Public Prosecutor-in-Charge has raised vehement objection against the prayer for bail and submits relevant part of the case diary. He also places the final opinion of the Medical Officer as to the cause of death.

It is found on careful perusal of the case diary that one wooden batten was recovered from the possession of the petitioner. The Autopsy Surgeon opined that the cause of death of the victim is homicidal in nature and it was caused as a result cumulative effect of assault perpetrated upon him.

On completion of investigation, police has already submitted charge-sheet, meaning thereby that the prima facie charge under Section 302 of the Indian Penal Code is established.

Considering such aspect of the matter we do not find it as a fit case for allowing the application for bail.

Accordingly, the prayer for bail is **rejected**.

CRM(DB) 3682 of 2022 is, thus, **disposed of**.

All parties to act on the server copy of this order duly collected from the official website of the Hon'ble High Court, Calcutta.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Prasenjit Biswas, J.)

(Bibek Chaudhuri, J.)

