

CRM (DB) 113 of 2022

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

And

In Re : Dibakar Dey @ Rijju

.....Petitioner

Mr. Sudip Guha

.....for the Petitioner

Mr. Abhijit Sarkar

Mr. Sagnik Sankar Sikdar

.....for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Pundibari P.S. Case No. 348 of 2021 dated 21/07/2021 under Sections 406/376(2)(n)/506/34 of the Indian Penal Code and subsequently added Section 306 of the Indian Penal Code.

Mr. Guha, learned advocate appearing for the petitioner submits that the petitioner is innocent. He had a love relationship with the victim girl. Unfounded allegations have been levelled that the petitioner had abetted the victim to commit suicide. The unfortunate death occurred about a month after the alleged incident and there was no dying declaration. The petitioner has already suffered long incarceration for about 216 days and there is no possibility towards conclusion of the trial in the near future. In view thereof, the petitioner may be enlarged on bail on any stringent condition.

Mr. Sarkar, learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to several documents including the statement of the witnesses, as recorded under Sections 161 and 164 of the Code as well as the post mortem report.

Answering our query, he submits that there is no dying declaration or any suicide note.

Heard the learned advocates appearing for the respective parties and considered the materials in the case diary.

The issues as to whether the acts of the petitioner would *per se* constitute abetment of suicide is a matter to be decided at the appropriate stage of the trial, in accordance with law.

Considering the nature of allegations, the manner in which the offence has taken place, the period of detention already suffered by the petitioner and the possible extent of his complicity in the alleged offence, we are of the opinion that his further detention is not necessary.

Accordingly, we allow the bail to the petitioner, namely, **Dibakar Dey @ Rijju** 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 Chief Judicial Magistrate, Cooch Behar.

It is further directed that the petitioner shall not tamper with the evidence and/or intimidate the witnesses. He shall also attend learned Court below on all the dates, as specified for hearing.

In the event the petitioner fails to comply with the aforesaid directions, without any justifiable cause, the learned Trial Court below shall be at liberty to cancel his bail, in accordance with law, without further reference to this Court.

The application for bail, being CRM (DB) 113 of 2022, is disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Ajoy Kumar Mukherjee, J.)

(Tapabrata Chakraborty, J.)