

30.01.2023
50
sdas
allowed

CRM(DB) No. 330 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Jalangi Police Station Case No. 180 of 2020 dated 07.05.2020 under Sections 498A/302/34 of the Indian Penal Code.

And

In Re : Golam Mostafa @ Dalu petitioner

Mr. Jisan Hossain
Ms. Chandrima Debnath
Mr. K. Mondal

.....for the petitioner

Mr. S. G. Mukheree, learned PP
Mr. Partha Pratim Das
Mrs. Manasi Roy

..... for the State

Learned Counsel for the petitioner submits he is in custody for over 900 days. It is also submitted that there is no reliable evidence that the victim housewife was murdered. Though the victim was alive for nine days no dying declaration was recorded in the hospital. He prays for bail.

Learned Counsel for the State opposes the prayer for bail and submits victim housewife suffered burn injuries at the matrimonial home. There is an oral dying declaration to neighbours. One witness has been examined.

We have considered the materials on record. Incident occurred two years after marriage. Though some neighbours claimed victim made dying statement, its credibility is to be assessed in the backdrop of the fact no dying declaration was recorded in the hospital though victim remained alive for more

than a week. Petitioner is in custody for two years and seven months and only one out of twenty witnesses cited in the charge-sheet has been examined. There is little possibility of the trial concluding in the near future. Petitioner does not have criminal antecedents and there is no possibility of his abscondence. Under such circumstances, we are inclined to grant bail to him.

Accordingly, we direct that 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, Murshidabad at Berhampore, subject to condition that petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to appear before the trial court without 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, accordingly, allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)