

16.02.2023
tkm/ct 28
sl no.61

C.R.M. (DB) 651 of 2023

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Ranaghat P.S case no. 253 of 2022 dated 16.4.2022 under sections 302/34 IPC adding sections 201/120B IPC

And

In Re : Gita Saroj

..... petitioner

Mr. Milon Mukherjee, Sr. Adv.
Mr. D Dutta

..... for the petitioner

Ms. Z N Khan
Mr. Arup Sarkar

..... for the State

Petitioner is in custody for 306 days. It is contended she was not present at the place of occurrence. She has been falsely implicated and charge sheet has been filed under section 201/120B IPC against her. Co-accused Malaly Sarkar @ Koushik has been granted bail. Accordingly she prays for bail.

Learned lawyer for the State submits petitioner does not stand on the same footing with co-accused Malaly Sarkar @ Koushik. Malay Sarkar was an employee of the hotel where the incident occurred. On the other hand, petitioner had motive to commit the crime. She had an illicit affair with the victim and it is alleged she had conspired with the co-accused Apu to commit the murder.

We have considered the materials on record. It is true charge sheet was filed under section 201/120B IPC against the petitioner as well as Malaly Sarkar @ Koushik.

It is trite the power of the court to frame charges against the accused is not circumscribed by the opinion of the investigating agency. It depends on the materials collected in the course of

investigation which may give rise to a strong suspicion of a graver offence than the one cited in the charge sheet. We have examined the materials on records from that perspective. Statements of witnesses and other materials on record show petitioner and co-accused Apu had meeting of minds prior to the incident. They had motive to murder Ajay. Pursuant to the conspiracy, petitioner made telephonic call to Ajay presumably to call him to the spot. Her role is much more grave than Malaly Sarkar @ Koushik, an employee of the hotel against whom allegations at its height is disappearance of evidence.

Under such circumstances, we are not inclined to grant bail to the petitioner at this stage.

Accordingly, prayer for bail is rejected.

Observations made by us are for the purpose of disposal of the application and shall not have any bearing at the subsequent stage of the proceeding which needless to mention shall be decided independently and in accordance with law.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)