

28.03.2023
tkm/ct 28
sl no. 60

C.R.M. (DB) 1163 of 2023

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Hirapur PS case no. 418 of 2022 dated 18.10.2022 under sections 498A/306/34 of the IPC, charge sheet submitted under sections 498A/306/304B/34 of the IPC and 3/4 of the DP Act

And

Allowed

In Re : Asad Zeha Zahir @ Asad Zia Zahir petitioner

Md. Khai Rul

..... for the petitioner

Mr. S G Mukherjee, Id PP

Mr. P P Das

Ms. Eshita Datta

..... for the State

Petitioner prays for statutory bail. He submits he had availed of his right to statutory bail prior to filing of charge sheet.

This, however, is disputed by the learned lawyer for the State.

Petitioner was arrested on 18th October 2022. He was remanded to custody on 19th October 2022. Statutory period of detention expired on 16th January 2023. On the 92nd day petitioner prayed for statutory bail. But police report had been filed earlier on the self-same day. It is strenuously contended that the bail prayer was filed prior to submission of police report. On perusal of the order dated 18.1.2023, a different picture emerges. Learned Magistrate observed that the bail application was filed after submission of the police report.

A finding recorded in a judicial order carries a presumption of correctness. Hence, we are unable to accede to the prayer of statutory bail of the petitioner.

On merits, we note that the allegations of torture are general and omnibus. Victim-housewife committed suicide four years after marriage. Investigation is complete. Petitioner has roots in society and there is no chance of abscondence. Balancing the nature of accusation with the period of detention suffered by the petitioner and as investigation is complete, we are inclined to grant bail to the petitioner.

Accordingly, the petitioner 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 CJM, Paschim Bardhaman at Asansol on condition that the petitioner shall appear before the trial court on every date of hearing and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

The application being CRM (DB) 1163 of 2023 is disposed of.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)