

05.04.2023
Sl. No.47
akd
(Rejected)

C.R.M. (DB) 1358 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Bidhannagar East Police Station Case No.103 of 2020 dated 10.12.2020 under Sections 364/34/302/201/120B of the Indian Penal Code.

And

In Re: **Vaidehi Mahensaria @ Mustaan**

... Petitioner.

Mr. Kumar Vaibhaw
Md. Surendra Dube
Mr. Meghajit Mukherjee
Ms. Priyanka Sharma

...for the Petitioner.

Mr. Madhusudan Sur .. Id Addl. Public Prosecutor
Mr. Manoranjan Mahato

...for the State.

Petitioner is a 22-year old girl. It is submitted on behalf of the petitioner that she is in no way connected with the murder. None of the witnesses have implicated her. She prays for bail.

Learned Additional Public Prosecutor opposes the prayer for bail and submits petitioner is a participant in the murder. Her mother had an illicit affair with another person. One of the brothers who was physically challenged had objected. As a result, petitioner's mother in collusion with the petitioner and her brother committed the murder. Thereafter, they absconded. Skeleton was recovered from their house. Other incriminating articles have also been recovered.

We have considered the materials on record. Petitioner used to ordinarily reside with her mother. Skeleton of the deceased was recovered from the said house. Immediately after the occurrence the family had absconded. During investigation incriminating articles were recovered. These circumstances prima facie establish presence of the petitioner at the place of occurrence and her sharing of common intention with co-accused in committing a ghastly crime. Her presence at the place of occurrence and other attending circumstances shifts the onus on her to explain the circumstances resulting in the homicidal death. It is for the petitioner to discharge such onus in the course of trial. Trial has substantially progressed and 16 witnesses have already been examined. Most part of the delay is due systemic reasons and prosecution cannot be blamed for it. Gravity of the crime which attracts mandatory life imprisonment and substantial progress in trial does not persuade us to enlarge the petitioner on bail on the ground of delay. Under such circumstances, we are not inclined to grant bail to the petitioner at this stage.

The application for bail is thus rejected.

Trial Court is directed to conduct the trial as expeditiously as possible and conclude the same at an early date preferably within one year from the next date fixed for recording evidence without granting unnecessary adjournment to either of the parties. Trial Court shall fix

schedules for recording evidence at reasonable intervals and the witnesses shall be examined positively in course of the proposed schedule.

Parties shall communicate a copy of this order to the trial Court for due compliance.

(Ajay Kumar Gupta,J.)

(Joymalya Bagchi, J.)