

10.05.2023
tkm/ct 28
sl no.46

C.R.M. (DB) 1781 of 2023

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Shibpur PS case no. 368 of 2022 dated 12.11.2022 under sections 498A/306/34 IPC

And

In Re : Adbhut Shankar Pathak

..... petitioner

Mr. Kallol Bose
Mr. Krishan Roy
Mr. D K Ojha

..... for the petitioner

Mr. S G Mukherjee, Id PP
Mr. P P Das
Mrs. Manasi Roy

..... for the State

Mr. Amit Singh
Mr. P K Singh

..... for the de facto complainant

Petitioner is the husband of the victim housewife. Victim housewife suffered accidental burn due to burst of geyser in the bathroom.

Learned lawyer for the State produces the case diary.

We note that charge sheet had been filed under section 306 IPC. Under such circumstances we directed Investigating Officer to submit explanation why graver charge under section 302 IPC was omitted.

Investigating officer is present.

Report is placed on record. In the report it is stated that opinion of the post mortem doctor with regard to cause of death is inconclusive and the doctor stated that the cause of death must be ascertained from circumstances. Perusal of the forensic report shows there is no sign of bursting of geyser. On the other hand, the victim was found inside the toilet with burn injuries.

Under such circumstances we are at a loss why offence under section 302 IPC was omitted from the charge-sheet. We do not appreciate the stance of the Investigating Officer.

Having note the aforesaid incriminating circumstances and as the explanation offered by the petitioner with regard to cause of death appears to be prima facie incorrect, we are of the opinion this is not a fit case to enlarge the petitioner on bail.

Accordingly, prayer of the bail is rejected.

Personal appearance of the Investigating Officer is noted and dispensed with.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)