

11.05.2023
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allowed

CRM(DB) No. 1867 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Shyampur Police Station Case No. 38 of 2023 dated 23.01.2023 under Sections 341/325/308/34 of the Indian Penal Code and Section 8 of the POCSO Act and charge-sheet submitted under Sections 302/34 of the Indian Penal Code and Section 8 of the POCSO Act.

And

In Re : Santanu Hapor @ Santanu Hapar petitioner

Mr. Somnath Adhikary

Mr. Shraman Sarkar

....for the petitioner

Mr. Madhu Sudan Sur, learned APP

Mr. Manoranjan Mahata

.... for the State

Learned Counsel for the petitioner submits he has been falsely implicated in the murder. Victim had consumed alcohol, fallen down and died. Petitioner is in custody for 106 days. He prays for bail.

Learned Counsel for the State opposes the bail prayer and submits petitioner had misbehaved with the daughter of the victim. When he protested he was assaulted. As a result he suffered injuries and died.

We have considered the materials on record. Prosecution contended victim had made oral dying declaration implicating the petitioner. On the other hand, history of injury noted in the medical papers show he had suffered injury due to fall. PM report shows presence of alcohol. Opinion of the medical officer with regard to cause of injury is not conclusive. Keeping in mind the

aforesaid facts, period of detention suffered by the petitioner and as investigation is complete, 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 Additional Session Judge, 1st Court (Special Court under POCSO Act) Uluberia, Howrah, subject to conditions 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.)