

19.05.2023

26  
sdas  
rejected

C.R.M.(DB) No. 1927 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Hanskhali Police Station Case No. 288 of 2022 dated 01.04.2022 under Sections 498A/326/307/34 of the Indian Penal Code and subsequently charge-sheet submitted under Sections 498A/302 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act.

And

In Re : Arobindu Mukherjee .... petitioner

Mr. Prabir Majumder  
Mr. Snehansu Majumder  
....for the petitioner

Mr. Saswata Gopal Mukherji, learned PP  
Mr. Partha Pratim Das  
Mrs. Manasi Roy  
..... for the State

Learned Counsel for the petitioner submits he is in custody for 410 days. There is no progress in the matter. Though victims survived for six days no dying declaration was recorded in the presence of the doctor. He prays for bail.

Learned Counsel for the State opposes the prayer for bail and submits efforts were made to record the dying declaration but due to poor health condition her statement could not be recorded.

We have considered the materials on record. FIR records the oral dying declaration made by the victim to her father. Failure to record her dying declaration in the hospital

may be due to bureaucratic reasons or other circumstances beyond the control of the de-facto complainant. It is contended that a belated effort to record dying declaration was made but could not be done due to deteriorating health condition of the victim. In view of the aforesaid circumstances including incriminating materials on record and gravity of the offence, we are not inclined to grant bail to the petitioner.

The application for bail is, thus, rejected.

Trial court is requested to consider the issue of framing of charge at the earliest and in the event charge is framed to take the proceedings to its logical conclusion without granting any unnecessary adjournment to either of the parties.

**(Ajay Kumar Gupta, J.)**

**(Joymalya Bagchi, J.)**