

17.05.2023
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allowed

CRM(DB) No. 1980 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Deganga Police Station Case No. 144 of 2023 dated 04.04.2023 under Sections 302/34 of the Indian Penal Code.

And

In Re : Papai Adhikari @ Papai Adhikary petitioner

Mr. Sabyasachi Mukherjee

Mr. Bibek Dey

Ms. Debarati Choudhury

Mr. Mukesh Khanna

Mr. Syed Neaz Ahmed

....for the petitioner

Ms. Zareen N. Khan

Mr. Ashok Das

.... for the State

Mr. Diptangshu Basu

..... for the de-facto complainant

Learned Counsel for the petitioner submits he is in custody for 42 days. It is also submitted there is delay in lodging FIR. There is no material to show that the victim suffered homicidal death. He has been falsely implicated out of mere suspicion. He prays for bail.

Learned Counsel for the State opposes the bail prayer and submits victim had an affair with the sister-in-law of the petitioner. He had opposed the relationship and threatened the victim. Subsequently, he suffered unnatural death.

Learned Counsel for the de-facto complainant submits petitioner had threatened the victim. Thereafter, he was

murdered. Local police refused to take complaint. Hence, he was constrained to file application before the Magistrate.

We have considered the materials on record including the postmortem report. Cause of death of the victim does not appear to be homicidal. There is delay in lodging FIR. Though there may be some materials with regard to motive in the backdrop of the aforesaid facts further detention of the petitioner is not necessary and he may be enlarged on bail.

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 Chief Judicial Magistrate, Barasat, 24 Parganas, 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.)