

17.05.2023
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allowed

CRM(DB) No. 1997 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Berhampore Police Station Case No. 1529 of 2022 dated 10.11.2022 under Sections 302/34 of the Indian Penal Code and charge-sheet submitted under Sections 302/34 of the Indian Penal Code.

And

In Re : Ambia Bibi & Anr. petitioners

Mr. Niladri Sekhar Ghosh

Mr. Tapodip Gupta

Mr. Sourav Mondal

....for the petitioners

Ms. Zareen N. Khan

Md. Kutubuddin

.... for the State

Learned Counsel for the petitioners submits allegation of conspiracy to murder the victim who was the paramour of petitioner no. 1 is patently absurd. There is no direct evidence connecting them with the murder. They pray for bail.

Learned Counsel for the State opposes the prayer for bail and submits CDRs show petitioner no. 1 had telephonic communications with the victim. They were last seen together. Bamboo stick has been recovered.

We have considered the materials on record. Prosecution case is that there was an illicit relationship between petitioner no. 1 and the victim. Their presence together and/or *inter se* telephonic communications require to be assessed in the light of the aforesaid relationship. Nothing is placed on record to show petitioners had conspired to murder the victim. Whether

incriminating circumstances relied upon by the prosecution would form a complete chain implicating them in the murder may be assessed during trial. Under such circumstances and as investigation is complete and there is no chance of abscondence petitioners may be released on bail.

Accordingly, we direct that the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- each with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Murshidabad at Berhampore, subject to conditions that they 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 petitioners fail to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel their 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.)