

08.06.2023
tkm/ct 28
sl no. 32

C.R.M. (DB) 2182 of 2023

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Suti PS case no. 581 of 2022 dated 2.11.2022 under section 420/467/471/304 of the IPC and 15 of the Medical Council Act

And

Allowed

In Re : Md. Abdul Malek @ Dr. Abdul Malek @ Md. Abdul Malek Sk
..... petitioner

Mr. Milon Mukherjee, Sr. Adv.
Mr. P Mukherjee
Ms. P Dutta

..... for the petitioner

Mr. N Ahmed
Ms. Trina Mitra

..... for the State

Petitioner is in custody for 115 days. He submits that the victim was a nurse and was treated by him for 11 months. It is not clear that due to wrong treatment she suffered death.

Learned lawyer for the State opposes the bail prayer. He submits that the petitioner did not have necessary qualifications but personated himself as an allopathic doctor. Medical opinion states due to wrong treatment victim died.

We have considered the materials on record. Victim was a trained nurse. She offered herself for treatment by the petitioner for more than 11 months. No doubt the petitioner did not have requisite qualifications to practice allopathy. But it is to be seen whether the medicine or protocol of treatment administered by the petitioner was contrary to established protocol or was the direct and proximate cause of her death. Statement of the medical officer

recorded during investigation is a cryptic one and does not advert to the aforesaid aspects.

Under such circumstances and as investigation is complete and there is no possibility of abscondence, we are inclined to grant bail to the petitioner.

Accordingly, the petitioner 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 District & Sessions Judge, 2nd Fast Track Court Jangipur, Murshidabad on condition that the petitioner shall appear before the trial court on every date of hearing and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

The application being CRM (DB) 2182 of 2023 is disposed of.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)