

10.08.2023
tkm/ct 28
sl no.30

C.R.M. (DB) 2784 of 2023

In Re : An application under section 439(2) read with section 482 of the
Code of Criminal Procedure

And

In Re : Khodadil Sk @ Khodadil Sekh petitioner

Mr. Satadru Lahiri

Mr. S Azam

Mr. J Talukder

..... for the petitioner

Ms. Z N Khan

Mr. Arup Sarkar

..... for the State

Mr. Bitasok Banerjee

..... for OP no. 2

Order dated 10.4.2023 granting bail to opposite party no. 2
has been assailed.

Learned lawyer for the petitioner submits that victim had
been murdered. Statement of the minor daughter shows petitioner
was present at the place of occurrence. Without considering the
incriminating materials and gravity of offence, bail was granted.

Learned lawyer for opposite party no. 2 denies and disputes
such allegations. He submits allegation of murder has not been
established. Charge sheet has been filed under section 306 IPC.

Learned lawyer for the State produces the case diary.

We have considered the impugned order in the light of the
aforesaid submissions. Victim housewife had an illicit relationship
with the opposite party no. 2. She died under unnatural
circumstances. Initially FIR was registered for murder. Post mortem
report shows she died due to hanging. Opposite party no. 2 was

arrested and after 60 days of detention he was released on bail. Learned judge while considering the bail, noted post mortem report nullified a case of murder. Victim did not leave behind any suicide note implicating the opposite party no. 2 as an abettor to her suicide.

Under such circumstances, we are of the opinion the trial judge had considered relevant factors including the nature of offence, evidence collected in the course of investigation and necessity of further detention. In this factual matrix the impugned order appears to be a well-reasoned one and does not call for interference.

Accordingly, application for cancellation of bail is dismissed.

In the event opposite party no. 2 threatens or intimidates witnesses in future, it shall be open to the petitioner to seek appropriate redress in accordance with law, if so advised.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)