

09.08.2023
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allowed

CRM(DB) No. 3051 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Gangarampur Police Station Case No. 198 of 2018 dated 30.07.2018 under Sections 498A/302/506/34 of the Indian Penal Code.

And
In Re : Abdul Chhalam Mia @ Abdul Chalam petitioner

Mr. Jayanta Narayan Chatterjee
Mr. Kaushik Choudhury
Mr. Gour Hari Das
.....for the petitioner

Mr. Saswata Gopal Mukherji, learned PP
Ms. Faria Hossain
Ms. Mamata Jana
..... for the State

Learned Counsel for the petitioner submits he is in custody for more than five years. It is also submitted that there is no progress in the matter since last rejection of bail by this Court in February, 2022. He renews his bail prayer.

Learned Counsel for the State opposes the prayer for bail and submits that the housewife died due to strangulation at the matrimonial home.

We have considered the materials on record Allegations are serious and involve murder of the housewife. But the conduct of the prosecution in the case leaves much to be desired. Bail prayer of the petitioner had been rejected in February, 2022. Thereafter trial could not proceed due to non-availability of alamat. Petitioner has languished in jail for more than five years. Only one witness has been examined till date. It is doubtful

whether trial will see its logical conclusion in a decade. Under such circumstances, we are of the opinion fundamental right of the petitioner to speedy justice has been infringed and he is entitled to 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, Gangarampur at Buniadpur, 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.

Copy of this order be sent to the Superintendent of Police, Dakshin Dinajpur, and he is directed to take immediate steps to trace out the *alamat* of the case and place the same before the trial court. Trial court shall proceed with the trial with utmost expedition and conclude the same at an early date.

Report be filed four weeks hence (06.09.2023).

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)