

01.09.2023  
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allowed

CRM(DB) No. 3425 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Patiram Police Station Case No. 3 of 2023 dated 03.01.2023 under Sections 498A/302/34 of the Indian Penal Code.

And  
In Re : Palash Barman ..... petitioner

Mr. Biswajit Manna  
.....for the petitioner

Ms. Zareen N. Khan  
Mr. Asif Dewan  
..... for the State

1. Learned Counsel for the petitioner submits he is in custody for 241 days. It is also submitted that he tried to save his wife and suffered injuries. He was hospitalised. Purported oral dying declaration claimed to be made by the victim implicating the petitioner is false. He prays for bail.

2. Learned Counsel for the State opposes the prayer for bail and submits victim made oral dying declaration to her relations that the petitioner had set her on fire.

3. We have considered the materials on record. Petitioner had suffered injuries in the course of the incident. This probabilises the plea that he may have tried to save his wife from death. Purported oral dying declaration claimed to have been made to the relations in the hospital is not reflected in the FIR. No effort has also been made to record the dying declaration before Executive Magistrate in the presence of a doctor. It is also

relevant to note bed head ticket indicates a case of suicidal burning. Oral dying declaration requires to be assessed in the light of the aforesaid attending circumstances during trial. Keeping these facts, period of detention suffered by the petitioner and as there is no chance of his abscondence, we are inclined to grant bail to him.

4. 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 Chief Judicial Magistrate, Balurghat, Dakshin Dinajpur, subject to condition 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.

5. 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.

6. The application for bail is, accordingly, allowed.

**(Gaurang Kanth, J.)**

**(Joymalya Bagchi, J.)**