

05.10.2023
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allowed

CRM(DB) No. 3575 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Bagdah Police Station Case No. 597 of 2023 dated 20.08.2023 under Sections 498A/302/304B/34 of the Indian Penal Code.

And

In Re : Bibekananda Bala @ Bebakananda Bala & Anr. petitioners

Dr. Chapales Bandyopadhyay

Mr. Azizul Islam

Ms. Gargy Basu

Ms. Atmaja Bandyopadhyay

Ms. Anandamayee Dutta

....for the petitioners

Mr. S. G. Mukherjee, learned PP

Mr. Partha Pratim Das

Mrs. Manasi Roy

.... for the State

Dr. Rajib Kumar De

.... De facto complainant in person

1. Learned Counsel for the petitioners submits they are the father-in-law and brother-in-law respectively of the victim housewife. It is further submitted that there was matrimonial discord between the co-accused husband and his wife on the ground that the husband suspected his wife. Couple used to reside in the first floor of the house where the husband murdered his wife. Petitioners are in no way involved in the murder. They are in custody for 45 days and no incriminating material has transpired against them during investigation. Accordingly, they pray for bail.

2. Learned Counsel for the de facto complainant appears in person. He submits petitioners along with the husband had

demanding dowry. On such score, they tortured his daughter. She had taken refuge at his residence. Subsequently she returned to the matrimonial home. On the fateful night petitioners were present in the house and had abetted the principal accused to commit the murder. Hence their bail prayer may be refused.

3. Learned Counsel for the State produces the case diary and opposes the prayer for bail. He contends petitioners were present in the house at the time of occurrence.

4. We have considered the rival submissions of the parties. Victim was married to co-accused Dr. Arindam Bala. The marriage was out of love. Subsequently the husband suspected his wife. This gave motive to commit the crime. On the fateful night after dinner the couple retired to their room in the first floor of the house. Petitioners were in the ground floor room. Incident occurred in the first floor room which was exclusively occupied by them. These circumstances militate against the plea that the petitioners had abetted the murder. They are in custody for 45 days and no material disclosing involvement of the petitioners have transpired during investigation. Motive to commit the crime is not for demand of dowry but due to suspicion entertained by the husband with regard to the fidelity of his wife. Keeping in mind the extent of complicity of the petitioners in the crime and as there is no chance of abscondence, we are of the opinion that they may be enlarged on bail subject to conditions.

5. 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 Additional Chief Judicial Magistrate, Bongaon, North 24 Parganas, on further condition that while on bail they shall meet the Officer-in-Charge, Bagdah Police Station once in a week until further orders. 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.

6. 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.

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

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)