

18.09.2023
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allowed

CRM(DB) No. 3620 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Amdanga Police Station Case No. 474 of 2022 dated 08.09.2022 under Sections 302/201/120B of the Indian Penal Code.

And

In Re : Abu Sam Mondal petitioner

Mr. Amitabha Karmakar

Mr. Arup Kumar Bhowmick

....for the petitioner

Mr. Rudradipta Nandy, learned APP

Mrs. Sonali Das

.... for the State

1. Learned Counsel for the petitioner submits he is in custody for a year. It is also submitted that he has been falsely implicated in the case. He prays for bail.

2. Learned Counsel for the State opposes the prayer for bail and submits petitioner is the paramour of the co-accused, Kasmira Bibi. Together they committed the murder. Bail prayer of Kasmira Bibi had been turned down.

3. We have considered the materials on record. Kasmira Bibi is the wife of the deceased. She was present with the deceased on the fateful night. None of the witnesses had seen the petitioner go to the residence of Kasmira Bibi on the fateful night. Prosecution relies on recovery of a button from the shirt of the petitioner and his purse with Voter's Identity Card at the place of occurrence to establish his presence. It is improbable that

petitioner would leave behind his personal belongings at the place of occurrence after committing the crime. Whether the said recoveries are clinching evidence to establish presence of the petitioner on the day of occurrence has to be assessed during trial. Keeping in mind the aforesaid circumstances and extent of complicity of the petitioner in the crime, 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 Additional Sessions Judge, Fast Track, 2nd court, Barasat, 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.

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.

(Ajoy Kumar Mukherjee, J.)

(Joymalya Bagchi, J.)