

05.10.2023.
46.
Ct.No.28
as
(Rejected)

C.R.M. (DB) 3843 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Maheshtala P. S. Case No.228 of 2023 dated 12.05.2023 under Sections 302/201/212/109/112 of the Indian Penal Code.

In the matter of : **Asish Naskar.**

... Petitioner.

Mr. Sourav Chatterjee,
Mr. Avik Ghatak,
Mr. Soumya Nag,
Mr. Abhinav Rakshit,
Mr. A. Mukherjee.

...for the Petitioner.

Mr. Madhusudan Sur, Id. A.P.P.,
Mr. Dipankar Paramanick.

...for the State.

Mr. Partha Sarathi Maitra.

...for the de-facto complainant.

1. Petitioner is in custody for 133 days. Investigation is complete. He submits had no motive to commit the crime. Statements of witnesses with regard to his involvement are ambivalent. He prays for bail.

2. Learned Advocate for the State opposes the prayer for bail. He submits petitioner is the brother of the deceased lady. Family of the deceased comprised of the ailing husband and a son with special needs. They also had a grandson. Petitioner took advantage of the situation and enter into conspiracy with one Isab Sk to commit the murder to his sister and grandson to grab the property. Statements of local people show there was enmity between

families. CDRs show telephonic conversations between co-accused Isab Sk and petitioner. Statement of tea seller and another person also corroborates the prosecution case that Isab Sk. acting on the instruction of the petitioner committed the murder.

3. We have considered the rival versions in light of the materials on record. Initially First Information Report was recorded against unknown persons. At that point of time nobody suspected the involvement of the petitioner. In course of investigation, involvement of co-accused Isab Sk. transpired. Thereafter, petitioner was arrested. CDRs show telephonic conversations between Isab Sk. and petitioner before and after the day of occurrence. Statement of a tea seller and another person show immediately after the incident, Isab Sk. informed the petitioner that the job was done. This read in the light of the CDRs give an impression of meeting of minds between two accused who commit the crime. It is strenuously contended that the family members have not disclosed *inter se* enmity. De-facto complainant is the son and he was interrogated at a time when no one was suspected of the murder. It is possible owing to trust bestowed on the petitioner was beyond their imagination, he may be involved in the crime.

4. Hence, we are of the opinion this is not a fit case to grant bail to the petitioner at this stage.

5. Accordingly, the prayer for bail of the petitioner is rejected.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)