

06.10.2023
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allowed

CRM(DB) No. 3857 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Domkal Police Station Case No. 277 of 2023 dated 01.05.2023 under Section 302 of the Indian Penal Code.

And

In Re : Samser Ali Mondal @ Kalu @ Samser Ali Mandal petitioner

Mr. Soumyajit Das Mahapatra
Md. G. N. Imrohi

....for the petitioner

Ms. Zareen N. Khan
Md. Kutubuddin

.... for the State

1. Learned Counsel for the petitioner submits though FIR alleges murder post mortem report shows victim had died due to suicidal hanging. He prays for bail.

2. Learned Counsel for the State opposes the prayer for bail and submits victim was assaulted and injuries were noted on the body of the victim. Ligature i.e. gamcha was recovered from the place of occurrence.

3. We have considered the materials on record. Petitioner is the paramour of the victim. There was dispute between the victim and her husband over illicit relationship. Though it is alleged the victim was murdered postmortem report shows she died due to ante mortem hanging which is ordinarily suicidal in nature. In this backdrop recovery of gamcha cannot be considered as a clinching circumstance. In view of the aforesaid facts and as

investigation is complete we are inclined to grant bail to the petitioner.

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, Berhampore, Murshidabad, 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 automatically without further reference to this Court.

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

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)