

12.10.2023
Sl. No.36
akd
[ALLOWED]

C. R. M. (DB) 3982 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 06.10.2023 in connection with Santipur Police Station Case No.574 of 2023 dated 06.06.2023 under Sections 307/328/34/302 of the Indian Penal Code. (G.R. Case No.2213 of 2023)

And

In Re: **Asit Mahato**

... .. Petitioner

Mr. Sayan De
Mr. Kaustuv Shome

... .. for the petitioner

Ms. Zareen N. Khan
Mr. Asif Dewan

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about 102 days. It is further submitted petitioner is not an in-law of the victim. Allegation that he along with co-accused administered poison in the food is patently absurd. Nature of poison has not been determined. Investigation is complete. Possibility of self-ingestion of poison owing to matrimonial discord cannot be ruled out. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits victim made an oral dying declaration to his mother and others that he had been administered poison by the petitioner and co-accused.
3. We have considered the materials on record. Victim went to the parental house of his wife. When he returned he started vomiting and died. Post mortem report opines death was due to unknown poison. Admittedly, there was matrimonial discord between the victim and his wife. Though prosecution claims he made oral dying

statement that the petitioner and his in-laws administered poison, possibility of self-ingestion of poison cannot be ruled out. Nothing is placed on record that the poison could have been administered without the knowledge of the victim. Petitioner has permanent home and hearth and there is no chance of his abscondence.

4. Under such circumstances and in view of the period of detention suffered by the petitioner, we are of the opinion further detention of the accused/petitioner is not necessary.
5. Therefore, the accused/petitioner, namely **Asit Mahato**, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Ranaghat, Nadia subject to condition that the said petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.
6. In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.
7. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)