

12.10.2023
Sl. No.41
akd
[ALLOWED]

C. R. M. (DB) 3990 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 19.09.2023 in connection with Hanskhali Police Station Case No.288 of 2022 dated 01.04.2022 under Sections 498A/326/307/34 of the Indian Penal Code and subsequently charge sheet submitted under Sections 498A/302 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act. (G.R. Case No.1580 of 2022)

And

In Re: ***Arobinda Mukherjee***

... .. Petitioner

Mr. Prabir Majumder
Mr. Snehansu Majumder

... .. for the petitioner

Mr. Saswata Gopal Mukherji .. Id. Public Prosecutor
Mr. Parthapratim Das
Mrs. Manasi Roy

... .. for the State

1. It is submitted on behalf of the petitioner that at the time of admission to the hospital the victim had made exonerative statement which was recorded by the doctor. She stated she had suffered accidental burns. Oral dying declaration subsequently made to her parents is out and out false. Accordingly, he renews his prayer for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits petitioner-husband was present when the victim was admitted. His influence on the victim may have compelled her to give a different version to the incident.
3. We have considered the materials on record. Firstly, it is clarified the notings of the doctor with regard to exonerative statement of the victim had not been placed before the court when bail prayer of the petitioner was rejected in May, 2023. The notings show victim stated she suffered accidental burn. No doubt petitioner-husband was

present at the time of her admission and it is argued that the said statement was on his tutoring. However, the same argument may be advanced with regard to the statement of the parents who claimed their daughter made oral dying declaration to them implicating the petitioner. These rival versions require to be thrashed out in the light of the attending circumstances during trial.

4. In view of the aforesaid inconsistent statements on record, we are of the opinion further detention of the accused/petitioner is not necessary.
5. Therefore, the accused/petitioner, namely **Arobinda Mukherjee**, 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.)