

13.10.2023
tkm/ct 28
sl no. 41

C.R.M. (DB) 4011 of 2023

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Jamuria P.S case no. 226 of 2015 dated 9.6.2015 under sections 302/201/379/511 of the IPC
and

Allowed

In Re : Biswanath Badyakar

..... petitioner

Mr. Kunal Ganguly

..... for the petitioner

Ms. Anasuya Sinha
Ms. Sayanti Santra

..... for the State

1. Petitioner is in custody for eight years. He submits there is no direct evidence connecting him with the murder. Circumstances relied upon by the prosecution is insufficient to establish the involvement of the petitioner. He prays for bail.
2. Learned lawyer for the State submits trial is in progress. A number of witnesses have been examined who implicate the petitioner.
3. We have considered the evidence on record. PW10 saw the petitioner come out of the house on 8.6.2015. But the dead body was recovered on the next day. Daughter of the deceased (PW4) deposed her father had talked with the petitioner and left for the newly constructed building in the morning of 8.6.2015. Though the daughter was aware where her father had gone, it is unclear why the dead body was recovered after one day. This issue requires to be explained by the prosecution during trial. Petitioner has already suffered incarceration for more than eight years. There is little possibility of the trial concluding in the near future.

4. Under such circumstances, we are inclined to grant bail to the petitioner.

5. Accordingly, the petitioner 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 CJM Paschim Bardhaman on condition that the petitioner shall appear before the trial court on every date of hearing 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 being CRM (DB) 4011 of 2023 is disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)