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allowed

CRM(DB) No. 4031 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Jhargram Police Station Case No. 52 of 2016 dated 15.04.2016 under Sections 364/365/120B of the Indian Penal Code adding Sections 302/201 of the Indian Penal Code.

And

In Re : Abdul Mukim @ Abdul Mokim petitioner

Mr. Anindya Sundar Chatterjee

....for the petitioner

Ms. Z. N. Khan

Ms. Moyukhi Mitra

.... for the State

1. Report filed in Court be kept on record.
2. Learned Counsel for the petitioner submits he is in custody for more than five years. It is also submitted there is slow progress in trial. Only two witnesses have been examined. There is no possibility of trial concluding in the near future. He prays for bail.
3. Learned Counsel for the State opposes the bail prayer and submits delay was engineered due to abscondence of the co-accused. Defence had been directed by the trial court to pay cost for seeking unnecessary adjournment. On the leading statement of the petitioner dead body of the deceased was recovered. Stolen articles of the deceased were also recovered from him.
4. We have considered the materials on record. Victim is paramour of the mother of the petitioner. It is alleged petitioner along with his mother murdered the paramour. Mother of the petitioner is absconding. Petitioner is suffering incarceration for

more than five years. Only two witnesses have been examined till date. Case is based on circumstantial evidence and there is no direct evidence that he had murdered the victim. On one occasion defence was called upon to pay cost for seeking unnecessary adjournment. It is also relevant to note that on repeated occasions witness was absent and proceeding was adjourned. There is little possibility of trial concluding in the near future. Under such circumstances, protracted detention of the petitioner would infract his fundamental right to speedy justice and he is entitled to bail on this score subject to strict conditions.

5. 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 Sessions Judge, Jhargram subject to conditions 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 and on further conditions that the petitioner shall remain within the jurisdiction of Kharagpur Police Station except for the purpose of attending court proceeding and shall report to the Officer-in-Charge of Kharagpur Police Station once in a week until further orders.

6. 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 in accordance with law without further reference to this Court.

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

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)