

19.10.2023
tkm/ct 28
sl no. 33

C.R.M. (DB) 4131 of 2023

In Re : An application under section 439 of the Code of Criminal Procedure in connection with Sankrail PS case no. 106 of 2021 dated 16.11.2021 under section 302 IPC
and

Allowed

In Re : Ashok Mahata petitioner

Mr. S Das Mahapatra
Ms. M Sinha

..... for the petitioner

Mr. Joydeep Roy
Ms. Sujata Das

..... for the State

1. Petitioner is in custody for two years. Eye-witnesses claimed that the victim was strangled to death but post mortem report shows he died due to injuries. He prays for bail.

2. Learned lawyer for the State opposes the bail prayer. He submits eye-witnesses have implicated the petitioner in the murder.

3. We have considered the materials on record. A quarrel had ensued between two individuals. Petitioner had intervened. Subsequently, one of the said persons had suffered homicidal death. Though eye-witnesses claimed petitioner had strangled him, no ligature injury on neck is noted in the post mortem report. Cause of death is shown as effect of injuries as noted in the post mortem report i.e. subdural hemorrhage all over the cerebral hemisphere of brain and extravasation of blood on the left fronto parietal region.

4. In the light of dichotomy between ocular and medical evidence as aforesaid, we are inclined to enlarge the petitioner on bail.

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 ACJM Jhargram 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) 4131 of 2023 is disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)