

02.05.2023
KC (21)

IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CRIMINAL MISCELLANEOUS JURISDICTION

C.R.M.(DB) 189 of 2023

In the Matter of : Suman Sen @ Satyajit Sen
..... petitioner.

Mr. Kumar Shantanu.....For the petitioner.

Mr. abhijit Sarkar,
Mr. Tapan Bhattacharjee.....For the State.

This is an application for grant of bail filed under Section 439 of the Code of Criminal Procedure, 1973 in connection with F.I.R. No. 34 of 2019 dated 3rd April, 2019 under Sections 498A/302 of the Indian Penal Code corresponding to Sessions Case No. 115 of 2019 pending before the court of learned Additional Sessions Judge, 1st Court, Jalpaiguri.

It is true that the petitioner is in custody for more than 4 years. It is also true that on 4 occasions, lastly on 1st August, 2022 this court had rejected his bail application.

The charge against the petitioner is of murder of his wife by strangulation.

Learned counsel for the petitioner submits that during examination of witnesses before the learned trial court the father, the elder sister and the brother-in-law of

the victim have given evidence which would tend to disprove the charge against the petitioner. This is a change in circumstances which would entitle the petitioner to have his prayer for bail reconsidered.

In our opinion, the learned judge before whom the deposition has been made would be the best judge to evaluate the evidence. Having evaluated the evidence he would be in the best position to adjudge whether there is a change in circumstances on which basis the petitioner could be enlarged on bail.

In those circumstances, we direct that in the event the petitioner makes an appropriate application before the learned trial court within two weeks from date, the learned judge would consider the question of bail to the petitioner and come to a decision. We keep all questions regarding grant of bail open before the learned judge.

The application for bail [CRM (DB) 189 of 2023] is, accordingly, disposed of.

(I.P. MUKERJI, J.)

(ANANYA BANDYOPADHYAY, J.)

