

D/L. 30.
September 21, 2023.
MNS

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (DB) 567 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 11.09.2023 in connection with Saheb Ganj Police Station Case No.137 of 2023 dated 23.04.2023 GDR entry no. 846 under Sections 498(A)/302 of the Indian Penal Code, 1860 thereby adding Sections 498(A)/304B of the Indian Penal Code read with Sections 3 & 4 of the Dowry Prohibition Act, 1961.

And

In the matter of: Lablu @ Lavlu Hoque

.... Petitioner

Mr. Sourav Ganguly,
Mr. Gopal Roy,
Mr. Bibek Tarafder

... for the petitioner

Mr. Ujjwal Luksom,
Mr. Biswarup Roy

... for the State

1. Learned counsel for the petitioner submits that initially the petitioner was alleged to be guilty of murder of his wife under Section 302 of the Indian Penal Code. Accordingly, the sections initially arrayed against the petitioner were Section 302 and Section 498A of the Indian Penal Code. However, subsequently it was found that the victim had committed suicide for which, under the statutory presumption of law, since the period of seven years had

not elapsed after the marriage, Sections 498A and 304B of the Indian Penal Code were clubbed against the petitioner.

2. Thus, it is argued, in view of the lack of clinching evidence against the petitioner, he may be released on bail.
3. Learned counsel for the State opposes the prayer for bail.
4. We find that the nature of the present allegation under Section 304B against the petitioner is of a lighter nature than Section 302 of the Indian Penal Code. Moreover, there is nothing on record to show that custodial trial is necessary any more.
5. Hence, CRM (DB) 567 of 2023 is allowed, thereby granting bail to the petitioner on condition that the petitioner furnishes bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Sessions Judge, Dinhata.
6. The petitioner shall not leave the territorial jurisdiction of the trial court during the entire period of trial and shall attend the trial on each and every date.
7. The petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts and circumstances of the case so as to dissuade such person from disclosing such facts to any police officer or the court and/or tamper with the evidence in any manner whatsoever.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)