

04.04.2024
Sl. No.39
akd
[ALLOWED]

C. R. M. (DB) 947 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 19.03.2024 in connection with Beldanga Police Station Case No.577 of 2023 dated 28.07.2023 under Sections 498A/304B/506 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act and subsequently charge sheet submitted under Sections 498A/304B/306/506 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act. (G.R. Case No.3460 of 2023)

And

In Re: **Nirabul Hoque**

... .. Petitioner

Ms. Shabana Hasin
Ms. Samima Akter Banu

... .. for the petitioner

Mr. Arnab Chatterjee
Ms. Dhanasree Biswas
Ms. Poulami Bose

... .. for the de-facto complainant

Mr. Avishek Sinha
Mr. Asraf Mandal

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for more than eight months. It is further submitted the allegation of administration of poison in *biryani* consumed by the victim lady is patently absurd. Victim was suffering from fever for one week. On 26.07.2023 petitioner took her to hospital and she was prescribed medicine. Thereafter he had kept her at her parental home where she died presumably due to consumption of poison. Petitioner has been falsely implicated. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail. He submits petitioner had illicit affairs. On 26.07.2023 he mixed poison in *biryani* and made the victim eat it. Thereafter he left the victim at

the railway station where she was recovered by her relations. Subsequently she died.

3. Learned Advocate for the de-facto complainant also opposes the prayer for bail.
4. We have considered the materials on record. Two rival versions have emerged with regard to the genesis of the incident and the unnatural death of the victim lady. Petitioner claims victim lady was suffering from fever and he had taken her to a government hospital on 26.07.2023. Medical report is enclosed with the application. History noted in the report shows victim was suffering from fever for one week and complained of body ache. Petitioner further claims on the same day he had left the victim at her parental home where she died on the next day.
5. On the contrary it is the prosecution case that on 26.07.2023 petitioner had mixed poison in *biryani* and made the victim eat it. Thereafter he left her at the railway station. She was recovered by one of her relations on the next day and died.
6. Prosecution case that the petitioner made the victim eat *biryani* laced with poison is not corroborated by the notings in the history recorded by the medical officer at the government hospital on 26.07.2023. Victim did not complain of uneasiness after eating *biryani*. On the other hand, she stated she was suffering from fever for the last seven days and complained of body ache. It is also relevant to note that nobody had seen the petitioner leave the victim at the railway station.
7. In the light of the aforesaid circumstances, we are of the opinion petitioner has made out an arguable case in defence. He is in custody for more than eight months. Charge has just been framed.

Possibility of conclusion of trial in the near future is bleak. There is no chance of abscondence.

8. Under such circumstances, we are of the opinion further detention of the accused/petitioner is not necessary and he may be enlarged on bail however, subject to strict conditions.
9. Therefore, the accused/petitioner, namely **Nirabul Hoque**, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Murshidabad at Berhampore subject to condition that the said petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever and on further condition that the petitioner, while on bail, shall not enter the jurisdiction of Jalangi and Beldanga Police Stations until further orders.
10. 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.
11. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)