

21.06.2024
Item no.37.
Court No.28.
S. De
(Allowed)

CRM (DB) No. 1849 of 2024

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure filed on 12.06.2024 in connection with Beldanga Police Station Case No. 100 of 2019 dated 07.03.2019 under Sections 302/201/34 of the Indian Penal Code.

And

In the matter of : Amzad Sk.

.....Petitioner.

Mr. Arnab Chatterjee,
Ms. Dhanasree Biswas,
Ms. Paulomi Bose,for the Petitioner.

Mr. Joydeep Biswas,
Mr. Bidram Mitra,for the State.

The petitioner renews his prayer for bail which was rejected by a Co-ordinate Bench by an order dated February 16, 2024, passed in CRM (DB) 394 of 2024.

The petitioner is the paramour of the wife of the victim. The allegation is that the petitioner and the victim's wife murdered the victim.

The petitioner says that subsequent to the rejection of his earlier prayer for bail, the daughter of the victim who had earlier recorded deposition to the effect that the petitioner has committed the offence, deposed on March 16, 2024 before the learned Trial Court in connection with de novo trial for the petitioner who was arrested subsequently that what she had stated in Court earlier was due to pressure created on her by her

paternal uncles, grand-mother and other family members. She was sleeping at the time when the incident took place.

The petitioner, therefore, says that he should be enlarged on bail since the prime witness in the case has deposed in his favour.

Learned advocate for the State quite rightly looks a little perplexed. He really cannot explain as to why the learned advocate for the prosecution in the trial Court did not declare this witness as hostile. We are also at a loss to understand why the Public Prosecutor did not ask the Court to declare this witness as hostile.

The Director of Prosecution is directed to look into this matter. If criminal proceedings are conducted in this manner on behalf of the State, the desired result will not follow.

In view of the aforesaid, we grant bail to the petitioner.

Accordingly, we direct that the petitioner namely **Amzad Sk.** 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 Chief Judicial Magistrate, Berhampore, Murshidabad and on further conditions that he shall remain within the jurisdiction of the concerned police station.

The 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 and/or commit any cognizable offence in any manner whatsoever.

In the event the petitioner fails to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed.

The learned Registrar General of our Court is directed to forthwith forward a copy of this order to the Legal Remembrancer as also to the Director of Prosecution, West Bengal.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)