

15.07.2024
Item no.65.
Court No.28.
S. De
(Allowed)

CRM (DB) No. 1878 of 2024

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure in connection with Raghunathganj Police Station Case No. 655 of 2023 dated 04.08.2023 under Section 302 of the Indian Penal Code.

And

In the matter of : Nur Mohammad Sk.

.....Petitioner.

Mr. Milon Mukherjee, Sr. Adv.
Mr. Sandip Chakraborty,
.....for the Petitioner.

Mr. S.S. Imam,
Mr. Dipankar Pramanick,for the State.

Order dictated in open Court by Apurba Sinha Ray, J.

Learned senior counsel for the petitioner submits that the petitioner has been in judicial custody for about 8 months. As the investigation is complete, there is no need for custodial detention of the present petitioner. He has also drawn our attention to the fact that the alleged offending wrench has been recovered from the possession of the petitioner after three months of the incident. The post mortem report did not mention that the death was due to injuries which are homicidal in nature. At best, this case should have been initiated under Section 304 IPC. However, as he is in custody for a considerable period of time, he may be granted bail on any condition.

Learned advocate appearing for the State opposes the prayer for bail. According to him, the post mortem report shows that the death was due to the effect of the injuries mentioned in the post mortem report and they are anti mortem in nature.

We have considered the material-on-record. Charge has already been framed and the prosecution is going to conclude the trial by examining 17 witnesses.

After going through the material-on-record, we find that there are sufficiently confusing and contradictory averment in FIR, statements of the witnesses recorded under Section 164 Cr.P.C. by the learned Judicial Magistrate and the post mortem report. It also appears that the intimation to the police given by the Superintendent of Murshidabad Medical College and Hospital is also confusing since the history of the incident has been recorded as road traffic accident.

Considering all the aspects, we are inclined to allow the prayer for bail of the present petitioner but on stringent conditions.

Accordingly, we direct that the petitioner namely, **Nur Mohammad 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 Additional Chief Judicial Magistrate, Jangipur, Murshidabad and on further conditions that the petitioner shall not enter the jurisdiction of the Raghunathganj Police Station except for the purpose of attending Court proceedings and shall also provide

the address where he will be presently residing to the Officer-in-Charge in whose jurisdiction he will be residing and shall also appear before such Officer-in-Charge once in a fortnight until further orders.

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 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.

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

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)