

13.11.2024

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Allowed

C.R.M. (DB) No. 2734 of 2024

In Re:- An application for bail under Section 483 of BNSS in connection with Hariharpara Police Station Case No. 529 of 2023 dated 23.11.2023 under Sections 302/34 of the Indian Penal Code with subsequent addition of Sections 201/120B of the Indian Penal Code.

And

In Re : Majibar Khan @ Potol @ Patal @ Mojiboar Khan petitioner

Mr. Sekhar Kumar Basu, Sr. Adv.

Mr. Antarikhya Basu

Ms. Madhumita Basak

.... for the petitioner

Ms. Zareen N. Khan

Mr. Parvej Anam

.... for the State

1. Learned Counsel for the petitioner submits he is in custody for 341 days. It is contended that his daughter eloped with the son of the deceased. Subsequently deceased was murdered and left in the hospital. Out of suspicion he has been falsely implicated. He prays for bail.

2. Learned Counsel for the State opposes the prayer for bail. It is also submitted petitioner's daughter had eloped with the son of the deceased. They were untraceable. Hence, petitioner bore grudge against the deceased. On a number of occasions petitioner and others came to the residence of the deceased and enquired about the whereabouts of his daughter and threatened the inmates. On the fateful day deceased went

missing. Petitioner and others dropped the dead body of the deceased in the hospital in a maruti vehicle. Vehicle was recovered from one of the co-accused.

3. We have considered the materials on record. Petitioner's daughter and the deceased's son had eloped. Petitioner had objected to the relationship. After his daughter went missing petitioner and others repeatedly went to the residence of the deceased to make enquiries. They threatened him and other inmates. These circumstances give reason to believe that the petitioner had motive to commit the crime. On the day prior to the incident deceased had gone missing. However, there is no material to show the petitioner was last seen at the residence of the deceased. Prosecution seeks to connect the petitioner with the murder on the strength of the statement of a doctor who claimed unknown persons had taken the deceased to the hospital in a maruti vehicle. Pursuant to the statement of co-accused maruti vehicle was recovered. No forensic examination of the vehicle to show the dead body was carried in the seized vehicle has been placed on record. Whether materials on record would form a complete chain of incriminating circumstances implicating the petitioner in the crime requires to be assessed during trial. Petitioner is in custody for a considerable period. There is no chance of trial concluding in the near future. Petitioner has permanent home and hearth and there is no possibility of abscondence Hence, we are inclined to grant bail to the petitioner.

4. Accordingly, we direct that the petitioner 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, Murshidabad, subject to condition that 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.

5. In the event petitioner fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

6. The application for bail is, accordingly, allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)