

06.02.2024.
16.
Ct.No.28.
as
(Allowed)

C.R.M. (DB) 4749 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Nabadwip P.S. Case No.90 of 2022 dated 09.03.2022 under Sections 498A/304B/302/34 of the Indian Penal Code and under Sections 3/4 of the Dowry Prohibition Act.

In the matter of : **Tapas Debnath.**

.... Petitioner.

Mr. Debabrata Roy,
Mrs. Karabi Roy,
Ms. Sarbani Mukhopadhyay,
Mr. S. Mondal.

...for the Petitioner.

Mr. Debasish Roy, Id. P.P.,
Ms. Sreyashee Biswas.

...for the State.

1. Petitioner is in custody for about one and half years. He contends no prosecution witness has been examined. Hence, he renews his bail prayer.
2. Learned Advocate for the State opposes the bail prayer. She submits petitioner has criminal antecedents. She also submits report which states due to law and order situation, the prosecution witness could not be examined in the course of last schedule.
3. We have considered the materials on record. Petitioner is the husband of the victim lady. She died due to poisoning at the matrimonial home within one year of marriage. Petitioner has criminal antecedents. Taking into consideration these circumstances, his bail prayer has been rejected earlier on

merits. Presently, petitioner has prayed for bail on the ground of delay in trial. To test the *bona fides* of the prosecution, the bail hearing was adjourned so that witnesses may be examined in the course of the schedule fixed on 29th and 30th January, 2024. Report filed before this Court shows due to law and order situation, witnesses could not be examined. This shows lack of seriousness on the part of the prosecution to lead its evidence. There is no direct evidence that petitioner had administered poison to the victim lady.

4. Keeping in mind the aforesaid circumstances, we are of the opinion further detention of the petitioner is not necessary and he may be released on bail subject to conditions.

5. Accordingly, the petitioner viz., **Tapas Debnath** 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 Judicial Magistrate, Nabadwip, Nadia subject to condition that he 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 remain within the district of Nabadwip and report to the Officer-in-charge, Nabadwip Police Station once in a week until further order.

6. In the event the 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.

7. This application for bail is, thus, disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)