

28.11.2024
SL No.5
srm/Mujahid
(Allowed)

**Calcutta High Court
In The Circuit Bench at Jalpaiguri**

C.R.M. (DB) 638 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973/Section 483 of the B.N.S.S. 2023 filed on **22.11.2024** in connection with **Nagrakata** P.S. Case No. **137/2023** dated **18.09.2023** under Section 302 of the Indian Penal Code.

And

In the matter of: **Tinku Goyal @ Goyal**

....Petitioner

Mr. Subrata Karmakar,
Ms. Madhumita Sarkar,
Ms. Rinka Chakraborty

...for the petitioner

Mr. Aditi Shankar Chakraborty,
Mr. Biswarup Roy

...for the State

The allegation against the petitioner is that he committed the offence of murder of his own sister-in-law as the sister-in-law used to frequently pick up quarrel with the petitioner's elder brother.

Learned Advocate representing the petitioner submits that the husband of the victim, who was one of the main witnesses of the prosecution has effectively demolished the prosecution case and he was declared hostile. From the evidence of the petitioner's brother, nothing had come out which could lend any support to the prosecution case. He submits that 30 witnesses have been cited in the charge-sheet. There is no possibility of

early conclusion of this trial. He prays for bail on these two scores.

Learned Advocate representing the State produces the case diary and vehemently opposes the prayer for bail. He submits that the prosecution case is based on extra-judicial confession made by the accused himself and places reliance upon the statements of some neighbours. He submits that the statements of witnesses and the recovery of the weapon used to commit the offence from the possession of the petitioner, has made the prosecution story believable. Considering these facts, the prayer for bail may be turned down. He submits that three witnesses have been examined and the trial would be concluded shortly.

In reply, the learned Advocate for the petitioner submits that P.O. is transferred and the court is lying vacant.

Heard learned Advocates. Perused the case diary and other materials including the post mortem report. The petitioner is in custody for 15 months. We find that the husband of the victim, who is the star witness of the prosecution, did not support the prosecution case. 30 witnesses have been cited in the charge-sheet, but only three witnesses have been examined. There is no possibility of expeditious disposal of the trial.

Taking note of these facts and considering the evidence so far collected against the petitioner, we are inclined to accept the petitioner's contention and enlarge the petitioner on bail. Accordingly, the application is allowed.

The petitioner be released on bail upon furnishing a bond of Rs.20,000/-, with two sureties of equal amount each, one of whom must be local, to the satisfaction of the learned Additional Sessions Judge, 4th Court Jalpaiguri. The petitioner will attend the learned trial court on each and every date fixed and shall not leave the jurisdiction of the trial court without permission of the learned trial court. The petitioner shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to comply with the conditions as stated hereinbefore, it is open to the learned trial court to cancel the bail of the petitioner without any further reference to this Court.

The application for bail is, thus, allowed.

(Partha Sarathi Chatterjee, J.)

(Shampa Sarkar, J.)