

M/L 176
09.12.2025
Bpg.
Dismissed

C.R.M. (M) 1985 of 2025

In Re: An application for bail under Section 439 of the Code of Criminal Procedure read with Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 filed in connection with Gosaba Police Station Case No.85 of 2022 dated 27.05.2022 under Sections 302/201 of the Indian Penal Code;

Ashan Ali Sardar
Versus
The State of West Bengal

Mr. Soumya Nag
Mr. Rajdeep Sengupta.
...for the petitioner.

Mr. Md. Adil Badr
Mr. Ejaz Akhter.
...for the State.

Learned advocate appearing for the petitioner submits that the petitioner is in custody for 3 years 4 months and only five witnesses have been examined and there are hardly any materials in support of the prosecution case. Learned advocate further submits that there are no materials and the petitioner has been falsely implicated and the trial being stretched at the behest of the prosecution for reasons best known to them.

Learned advocate for the State has drawn the attention of the Court to the evidence of P.W.4, namely, one Masud Sardar which reflects that when he was returning home at about 10.30-11.00 a.m. he saw that Assan Ali and his youngest child were tacking bath in the pond situated in the vicinity of the house of Assan Ali.

Learned advocate for the petitioner pointed from the cross-examination that “At that time I was a student and I was also working under a supervisor. I had no specific time to leave my home to attend my work. Lot of people used to use the road adjacent to the said pond...” By referring to the same, learned advocate for the petitioner intended to point out that the cross-examination would itself exonerate the present petitioner as from the evidence it would transpire that the said witness was not available at the time when the incident took place.

On the contrary, learned advocate for the State submits that the interpretation of the cross-examination would refer to the work with which the petitioner was involved at the relevant point of time and has no relevance to the examination-in-chief in respect of the petitioner and his son bathing.

Learned advocate for the State has also drawn attention of the Court to postmortem report which reflects that “Death was due to effect of drowning associated with attempted manual strangulation as noted above ante mortem in nature. Manner of death is homicidal ...”

Having considered the fact that the petitioner has not been able to make out any case, at this stage, for releasing on bail and as the evidence favours the prosecution, I am of the view that it would not be fit and proper till the independent witnesses are concluded by the prosecution that the petitioner be released on bail.

Accordingly, the prayer for bail of the petitioner at this stage in CRM(M)1985 of 2025 is dismissed.

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Tirthankar Ghosh, J.)