

CRM (DB) 4156 of 2023

In Re:- An application for bail under Section 439 of The Code of Criminal Procedure filed on 17.10.2023 in connection with ECO Park P.S. Case No.72 of 2022 dated 01.04.2022 under Sections 302/201/120-B of the Indian Penal Code, 1860.

In the matter of : Md. Hasrat Hussain @ Hossain
... Petitioner

Ms. Anasuya Sinha
Ms. Jonaki Saha
...For the Petitioner

Mr. Swapan Banerjee
Mr. Suman De
... For the State

1. The petitioner's prayer for bail was rejected on two earlier occasions, the last of which was on 12th December, 2022.

2. Learned counsel for the petitioner, however, seeks to rely on the deposition of the wife of the victim in course of trial subsequent to the two orders of rejection. Counsel further submits that the vehicle in which the deceased was last seen, was recovered from a pond pursuant to the statements made by four of the accused persons.

3. Learned counsel appearing for the prosecution submits that there is incriminating evidence against the petitioner and that the order of the coordinate Bench in CRM (DB) 3208 of 2022 and CRM (DB) 4347 of 2022 dated 12th December, 2022 records the factual circumstances in detail

and the fact that the petitioner before us does not stand on the same footing with two of the other co-accused.

4. We have, however, perused the evidence of the wife of the victim in detail.

5. The deposition, subsequent to the events presented to the coordinate Bench, now shows that the petitioner, i.e., Hasrat, was not the intended person who the victim was to meet on the date of occurrence of the crime. The deposition instead mentions “Raju”, who was subsequently granted bail. The deposition of the victim’s brother also mentions “Saddam” who was also granted bail. The prayer for cancellation of the bail given to Raju was rejected on 12th December, 2022.

6. The petitioner “Hasrat” has not been identified by any of the witnesses.

7. We, however, note that 24 out of 28 witnesses have been examined and two dates have been fixed on 30th November, 2023 and 1st December, 2023 for the trial.

8. Since the next dates have been fixed in close proximity and the petitioner’s bail application has been rejected twice by coordinate Bench, we are not inclined to allow the prayer for bail.

9. We, however, direct the learned Trial Court to consider the observations made by us in this order with regard to the deposition of the victim’s wife and the fact that

the victim has not been identified by any of the witnesses at trial. Needless to say that the learned Trial Court will also take into account other evidence placed before it.

10. CRM (DB) 4156 of 2023 is accordingly rejected for the above reasons.

(Bibhas Ranjan De, J.) (Moushumi Bhattacharya, J.)