

Sessions Case No. 44/2019

Order No. 57 dated 02.05.2025

Sole accused, namely Sankar Khetrapal, is produced from Correctional Home through VC. He is remanded to Correctional Home till 10.06.2025. To date for production.

Today, the case is fixed for evidence, production and hearing of bail-petition.

Ld. PP-in-Charge files hajira of witness.

Dr. Ajoy Halder is examined in chief in full as PW5 who proved bed-head ticket of the victim as Exhibit P-5. He is cross-examined in full and discharged. No other witness is present.

Now, the bail-petition filed on 17.04.2025 is taken up for hearing.

Heard Ld. PP-in-Charge and Ld. Lawyer for the accused. Perused the bail petition and the record. Considered.

Ld. Lawyer for the accused submitted that the accused has been detained in custody since 06.12.2018 and charge was framed against him on 28.06.2019 but the prosecution has been able to examine only five witnesses till date. The de-facto complainant has not supported the prosecution case and the other vital witness, being elder sister of the victim, was declared hostile. There is no cogent reason to detain the accused in custody any further. He relied on a decision reported in (2024) 3 SCC (Cri) 492 and argued that dying declaration of the victim in this case is not reliable. He prays for bail of accused person on any condition.

Ld. PP-in-Charge vehemently opposes the prayer for bail. He submits that this is case of brutal murder of daughter by her father by setting her on fire. He further submits that there is a dying declaration in this case and as such, the evidence of other witnesses hardly matters. He also submits that on several occasions, in spite of presence of witnesses, adjournments have been obtained on behalf of the defence. The delay in trial is attributable to the conduct of the defence. He submits that this is not a fit case for grant of bail to the accused.

It appears from the record that the charge has been framed against the accused u/s 302 of IPC on 28.06.2019. It further transpires from the record that five witnesses have been examined, being de-facto complainant, elder sister of the victim and others. The de-facto complainant and elder sister of the victim have not supported the prosecution case. It further appears that there is a dying declaration of the victim of murder and a conviction can be based solely upon dying declaration of the victim if the same inspires confidence of the court. The facts and circumstances of the decision relied by the Ld. Lawyer for the accused is not similar to the facts and circumstances of this case and as such, the decision is not applicable in this case. It is also apparent from the record that steps have been taken on behalf of the prosecution to secure attendance of the witnesses. Under such circumstances, I am of the view that this is not a fit case in which the accused should be enlarged on bail.

Considering the nature and gravity of the offence, I am not inclined to enlarge the accused on bail at this stage. Hence, prayer for bail of the accused is rejected.

At this stage, Ld. PP-in-Charge prays for issue of summons upon the witnesses.

Heard. Perused. Considered. Prayer is allowed.

To 10.06.2025, 11.06.2025 and 12.06.2025 for evidence of prosecution witnesses.

Prosecution to take steps for issuance of summons and production of Alamats on the dates fixed.

Dictated & Corrected by me.

Additional Sessions Judge, 3rd Court,
Burdwan

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