

Cri. Misc. Case No. 676 / 2022

Order No. 04 dtd. 16.11.2022

The instant application under section 439 of Cr.P.C. filed by accused / petitioner, namely Abhijit Ghosh, in connection with Chanditala P.S. Case No. 455/2022 dated 08.09.2022 under sections 498A/306/34 of I.P.C. adding sections 304B/406 of I.P.C. and section 4 of D.P. Act, is taken up for hearing.

Heard the Ld. Advocate for the petitioner, who submits that no application under section 439 of Cr.P.C. in respect of this accused person has been rejected or is pending before any higher court of law. He further submits that the instant case was initially started under sections 498A/306/34 of I.P.C. and subsequently, section 304B of I.P.C. was added. He submits that there is no allegation in F.I.R. regarding torture upon the victim for non-fulfillment of demand of dowry soon before her death. He further points out that subsequently, a statement under section 164 Cr.P.C. has been made by defacto complainant for the purpose of adding section 304 of I.P.C. and on the prayer of I.O., section 304 of I.P.C. has been added. He also points out that father-in-law and mother-in-law of the victim have approached the Hon'ble High Court for anticipatory bail, which was rejected and a plain copy of the order has been produced before the court and it has been submitted that there is no specific observation of the Hon'ble Court regarding the merit of this case. He prays for bail of the petitioner on any condition.

Ld. P.P.-in-charge opposes the prayer for bail relying upon materials in C.D., statement under section 161 Cr.P.C. and statement under section 164 Cr.P.C.

Perused the application under section 439 of Cr.P.C., L.C.R. and C.D.

This is a case under sections 498A/306/304B/34 of I.P.C. It transpires from the F.I.R. that there is allegation of instigation of committing suicide upon the victim by the petitioner and his parents but there is specific allegation in F.I.R. that the victim was tortured for non-fulfillment of demand of dowry soon before her death. But on careful perusal of C.D., it transpires that in the statement of witnesses under section 161 Cr.P.C., there are allegation of torture for non-fulfillment of demand of dowry. The statement under section 164 Cr.P.C. of defacto complainant recorded on 12.09.2022 discloses torture upon the victim for non-fulfillment of demand of money soon before her death. There are materials against the petitioner showing his involvement in the offence under section 304B of I.P.C. as well.

Considering the above, I am not inclined to allow the prayer for bail of the petitioner.

Accordingly, prayer for bail of the petitioner namely Abhijit Ghosh, is rejected.

Instant criminal misc. case is, thus, disposed of. Return L.C.R. and C.D.

Let a copy of this order be sent to the Ld. A.C.J.M., Serampore for information and taking necessary action.

Dictated & corrected by me.
Sd/- (Sri M.K. Rai)

A.S.J.

Sd/- (Sri M.K. Rai)
Additional Sessions Judge
1st Court, Serampore