

Order no. 16 dated 19.06.2024

Today is fixed for hearing on the bail petition dated 15.06.2024.

Sole accused Dipak Ray is produced from J.C.

Ld. advocate for the accused as well as Ld. PP in charge both are present.

The record is taken up for the hearing on the bail petition.

It is submitted on behalf of the accused person that most of the material witnesses have been examined in this case and none of the witnesses stated anything against the accused in corroboration of the case of the prosecution. It is further submitted that the accused person has been in custody for more than one and half years and the substantial portion of trial having already been completed and there being no substantive evidence against the accused, the court may grant bail to the accused of any condition whatsoever. It is further submitted that in the event the court grants bail to the accused, the accused shall not misuse the liberty and shall attend the court on each and every date.

Ld. PP in charge by raising vehement objection submitted that this is a case u/s 302/201 of IPC and the accused is charged of committing murder of his own mother who were living in the same house. He submitted that there had been no eye witness to the offence of committing murder and the prosecution case is basically dependent on circumstantial evidence. He further submitted that it will be too early to say that the prosecution has not been able to prove the supporting circumstances with a view to prove the guilt of the accused inasmuch as, so many others witnesses are yet to be examined and lot of circumstantial change are yet to brought on record and therefore the accused should not be granted bail at this crucial stage of the trial. Ld. PP accordingly prayed for rejecting the bail petition.

As a matter of fact this is a case u/s 302 of I.P.C. and the accused is charged with the offence of committing murder of his own mother. The matter entered stage of trial with the framing of charge on 26.06.23 and since thereafter as many as 10 witnesses so far have been examined by the prosecution. The record does not reflect any amount of negligence

on the part of the prosecution in the matter of completing the trial of the case. Be that as it may, so far as the prosecution case as reflected from the FIR is concerned, the dead body of the deceased was recovered from the septic tank of the house of the deceased who was going missing since few days before. The accused being the son of deceased is the prime suspect behind the alleged murder of his mother inasmuch as, he was living with his mother in the same house. The evidence adduced by the prosecution so far makes it clear that there is no eye witness to the incident of murder that is to say, none of the prosecution witnesses examined so far has not seen the accused committing the murder of his mother. Therefore, admittedly there is no direct evidence against the accused. Such matter, however, does not *ipsofacto* prove the prosecution case to be baseless, false or untrue inasmuch as, the prosecution's case is majorly based on circumstantial evidence and circumstantial evidence can be stated to be brought on record completely only if all the witnesses are examined and all the evidences are brought before the court. Indisputably, some other vital witnesses are yet to be examined and lot of circumstantial evidence are yet to be brought on record. Therefore, it will be too early to say that the prosecution has failed to bring any evidence against the accused.

Thus, considering the nature and gravity of the offence and the evidence adduced so far, I am not inclined to grant bail to the accused at this crucial stage of the prosecution.

Bail petition therefore stands rejected.

To 28.08.2024 for evidence and production.