Order No. 28
Dt. 21.9.2021

Today is fixed for appearance of the two accused persons on bail and consideration of charge. Accused Ratan Bari is present today and files hazira while accused Kajal Bari is found absent without steps. However, no adverse order is passed against her on account of the present pandemic situation. Let the next date be fixed for consideration of charge. Both the accused persons must be present on the next date. One interim bail confirmation petition is filed on behalf of accused Ratan Bari which is taken up for hearing. Ld. Advocate for the said accused person submits that this court had granted interim bail to the accused person on 24.8.21. He prayed for confirmation of the said interim bail so granted.
Ld. Advocate for the State submitted that necessary order may be passed by this court.
Heard. Perused the petition. Considered. It appears from perusal of the CD that there are incriminating materials against the present petitioner accused in the CD and the said accused person is found prima facie involved in a grave offence. Moreover, the trial of this case is yet to start. As such this court is not inclined to confirm the interim bail granted to this accused person vide Order No. 26 dt. 24.8.21. The prayer of the petitioner Ratan Bari is thus dismissed. However, the interim bail thus granted is extended till the next date fixed in this case.
One Order of Secretary DLSA, Jhargram along with photocopy of an application is found received in the record wherein which this Court has been requested to pass necessary order upon the said application. The record is now taken up for passing of the necessary order.
It appears from the application annexed with this order that the complainant of this case namely Gouri Bari has prayed for interim compensation for leading her life on account of the alleged murder of her husband Jayanta Bari in this case. Be that as it may, the application for compensation has to be decided in the light of the contours of the West Bengal Victim Compensation Scheme, 2017 and under the relevant provisions of sec. 357A Cr.P.C.

It appears prima facie from the materials in the copies of the prosecution documents found in the L.C.R. that the husband of the applicant died as a result of the assault over him by the accused persons leading to injuries on his head. Specifically, the copy of Inquest report prima facie shows that the deceased Jayanta Bari had injuries on his head and the copy of postmortem report prima facie shows that the death of the deceased was due to the injuries noted in the report which was ante mortem in nature. The account of the witnesses in their respective statements recorded u/s 161 Cr.P.C. also prima facie show that the deceased was assaulted with a bamboo on his head by the accused persons. Thus, it appears prima facie from the materials in the prosecution documents that the husband of the applicant died in furtherance of a crime committed against him by the named accused persons. However, the above findings are only prima facie and are yet to be proved by evidence after withstanding the test of cross examination of the prosecution witnesses. It is evident from the record that the trial of this case is yet to start and that this court has not yet recommended any interim compensation u/s 357A(2) of the Cr.P.C. to be paid to the victim or to the dependants of the deceased. Needless to add, neither any final compensation u/s 357A(3) of the Cr.P.C. has been recommended by this Court for the victim or the dependants of the deceased in this case. It is apparent that the instant application has been made by the applicant to DLSA Jhargram under sec. 357A(4) of the Cr.P.C. The provision of sec. 357A(5) Cr.P.C.

clearly states that as and when such application is made by any such applicant to the DLSA or State, or any recommendation of the nature mentioned above is made by the court (which is not the case at present), the said authority shall after due enquiry award adequate compensation. The same is the mandate of provision 4 of the West Bengal Victim Compensation Scheme, 2017 wherein which the eligibility for compensation has been spelt out. Thus this Court is neither inclined to recommend any interim compensation to the applicant at this stage, nor has the power to decide the fate of the application made to DLSA Jhargram u/s 357A(4) Cr.P.C.

As such this Court is not inclined to pass any order of granting compensation to the dependant of the deceased on the request mentioned in the order of DLSA sent to this Court.

Let an extract of this order be sent to Secretary, DLSA Jhargram for his information.

To 04.10.21 for appearance and consideration of charge.

Dictated and corrected by me

Additional District Judge,
1st court Jhargram.

Additional District Judge,
1st Court Jhargram.