

14.12.2020

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CRM 7971 of 2020

(Via Video Conference)

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with Sonarpur P.S. Case No.322 of 2018 dated 02.03.2018 under Sections 376/304B of the Indian Penal Code and Section 6 of the POCSO Act.

And

In the matter of: Byasdeb Mondal

....Petitioner.

Md. Sabbir Ahamed

Mr. Abdur Rakib

...for the petitioner

Mr. S.G. Mukherjee, Ld. PP.

Mr. Aniket Mitra

...for the State.

O.C. Sonarpur P.S. is present. Report of Superintendent of police Baruipur is placed on record. Investigating Officer's presence is noted and dispensed with.

It appears from the report that the child born to the victim lady has been given in adoption to parents residing in the United States of America through the appropriate authority.

In view of the aforesaid fact, it is submitted that DNA examination could not be conducted. Report is kept on record. Failure to conduct the DNA examination is accepted. Petitioner is at liberty to seek appropriate redress in accordance with law before the trial court.

In view of the aforesaid factual matrix and the fact that the case was registered eight months after the incident, we are of the opinion that further detention of the petitioner is not necessary and he may be granted bail but subject to strict conditions.

Accordingly we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/-(Rupees Ten thousand only) with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional District and Sessions Judge at Baruipur, South 24 Parganas subject to condition that the petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever and on further condition that the petitioner shall not enter the within the jurisdiction of Sonarpur P.S. until further orders except for the purposes of attending court proceedings and shall report to the Officer in charge of the concerned P.S. within whose jurisdiction he shall presently reside once in a week until further orders.

In the event the petitioner fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed.

(Suvra Ghosh, J.)

(Joymalya Bagchi, J.)