

27.11.2020

CRM 9355 of 2020

Court No. 16
Item No. 07
nandy

(BAIL – REJECTED)

In Re: An application for Bail under Section 439 of the Code of Criminal Procedure filed on 17.11.2020 in connection with Sonamukhi Police Station Case No. 72 of 2017 dated 01.09.2017 under Sections 376(2)(i) of the Indian Penal Code and Section 4 of the POCSO Act. (POCSO Case No. 12 of 2017)

and

In the matter of: **Najiful Mirja**

..... Petitioner

Mr. Samiran Mondal, Advocate

Mr. Supratik Jana, Advocate

Mr. Nitish Samanta, Advocate

.....for the Petitioner

Ms. Faria Hossain, Advocate

Mrs. Sonali Das, Advocate

.....for the State

The petitioner undertakes to affirm and stamp the petition as per the Rules within one week of resumption of the normal functioning of the court. The petition is taken up for hearing on the basis of such undertaking.

The learned Advocate for the petitioner submits that initially the petitioner was granted bail by this Court on February 14, 2018 in CRM 618 of 2018 on the basis of a finding that the petitioner is agreeable to marry the victim girl though it was all along the case of the petitioner that the marriage was solemnized. It is further submitted that the petitioner has been re-apprehended as the report submitted by the Police indicates that no marriage was ever solemnized.

The learned Advocate for the State opposes the prayer for bail. According to her, there is no marriage ever solemnized and the submission by the learned Advocate of the petitioner in connection with the earlier bail application was found to be incorrect. It is further submitted that the case has been committed to sessions trial and in fact, substantial progress has

been made therein.

After hearing the respective counsel and on perusal of the materials available on record, we find that there is a categorical finding made by this Court in an earlier bail application recording the intention of the petitioner to marry the victim girl. Despite the stand of the petitioner that the marriage has already been solemnized, it was found that the aforesaid statement made at the Bar was incorrect and the petitioner was re-apprehended/re-arrested by the Police Authority. Chargesheet has already been filed. The trial is going on. Some of the witnesses have already been examined but because of striking of the pandemic, the progress has been arrested.

We are not inclined to grant any privilege of bail to the petitioner at this stage. However, we appreciate the agony of the petitioner that the trial of the case has been delayed.

We request the learned Sessions Judge to make utmost efforts to resurrect the trial and all endeavour should be made to bring the case to its logical conclusion within six months from the date of communication of this order.

In view of the above, the prayer for bail is **rejected**.

CRM 9355 of 2020 is dismissed.

(Harish Tandon, J.)

(Hiranmay Bhattacharyya, J.)