

10.12.2020
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Sdas
allowed

**CRM 10196 of 2020
(via video conferencing)**

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Habibpur Police Station Case No. 29 of 2020 dated 28.01.2020 under Sections 363/365/120(B) of the Indian Penal Code and subsequently Section 4 of the POCSO Act.

And

In Re : Nur Khan @ Islam @ Nur Alam petitioner

Ms. Minoti Gomes
Mr. Partha Sarathi Das

.....for the petitioner

Mr. Binoy Kumar Panda
Ms. Puspita Saha

..... for the State

Petitioner is in custody for 335 days.

Learned Counsel appearing for the petitioner submits that there was a love affair between the teenagers and the petitioner has been falsely implicated in the instant case.

Learned Counsel appearing for the State opposes the prayer for bail.

We have considered the statement of the victim under Section 164 of the Code of Criminal Procedure. Allegation of forcible sexual intercourse is to be assessed in the light of the aforesaid submission that there was a love affair between the teenagers. Under such circumstances of the case and in view of protracted period of detention suffered by the petitioner, we are inclined in granting bail to the petitioner.

Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under POCSO Act, Malda subject to the 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.

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 automatically without further reference to this Court.

The application for bail is, accordingly, allowed.

(Suvra Ghosh, J.)

(Joymalya Bagchi, J.)