

11.12.2020
36
Sdas
allowed

**CRM 10274 of 2020
(via video conferencing)**

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Baruipur Women Police Station Case No. 23 of 2019 dated 24.07.2019 under Section 376D of the Indian Penal Code and under Sections 04/06/10 of the POCSO Act.

And

In Re : Najibul Mallick alias Nazibul Mallick petitioner

Mr. Angshuman Chakrabroty
.....for the petitioner

Mr. Bidyut Kumar Roy
Ms. Rita Datta
..... for the State

Petitioner is in custody for 513 days.

Learned Counsel appearing for the petitioner submits that the victim voluntarily cohabited with the petitioner.

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

Having considered the materials on record, we are of the opinion that allegation of forcible rape may be assessed in the light of the aforesaid submission and other attending facts and circumstances of the case. In view of the aforesaid fact and the period of detention suffered by the petitioner, we are inclined in granting bail to him.

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, Baruipur,

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.)