

08.01.2021

Item no.59

Ct.5

CHC

Allowed

C.R.M. No.220 of 2021

(Physical Hearing)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure in connection with Nakashipara Police Station Case No. 402/2020 dated 13.08.2020 under Sections 448/376/323 of the Indian Penal Code.

And

In the matter of:-

Nasir Sekh @ Nasiruddin Munsi

... Petitioner

Mr. Koustav Bagchi,
Mr. Amanul Islam,
Mr. Sourav Mukherjee

.. for the petitioner

Mr. Tanmoy Kr. Ghosh,
Mr. Arindam Sen

..for the State

This relates to prayer for bail.

Learned advocate Mr. Bagchi for the petitioner renews the prayer for bail for a change in the circumstances, due to the delay caused in the commencement of the trial leading to protraction of trial taking the ground of long detention of more than 125 days together with consensual sexual activities of the victim, for the alleged act, complained of.

Learned Additional Public Prosecutor, Mr. Ghosh raises strong objection against the prayer for bail referring the statement of the victim girl recorded under Section 164 Cr.P.C. and the medical evidence of the victim girl.

It is submitted by Mr. Ghosh that the petitioner/accused even dared to enjoy the victim, when her husband was away from the home, and had been to the village field for cultivation purpose.

Having considered the materials already collected in the C.D. in context with the rival submission of the parties and bearing in mind the extent of the injury sustained by the victim, which lacks of any external superficial injury on the person of the victim to reveal the brutality of the circumstances together with the period of detention already undergone by the petitioner, we are persuaded to grant bail to the petitioner.

Accordingly, petitioner (Nasir Sekh @ Nasiruddin Munsif) may find bail of Rs.20,000/- (Rupees Twenty Thousand only), with two sureties of Rs.10,000/- each, one of whom must be local subject to the satisfaction of Learned Chief Judicial Magistrate, Krishnagar, Nadia and on condition that petitioner shall ensure his presence on each date of hearing and will not intimidate the witnesses in any manner whatsoever and further will not tamper the evidence already collected until further order.

This Court makes it clear that in the event of making any departure as regards making observance of the conditions of bail, the trial court shall be free to go for cancellation of the bail without making any reference to this Court.

We, however, request the learned trial court to commit the case without causing any further delay after making due adherence to the provisions of the law necessary for getting the case committed to the Court of Sessions.

C.D. be returned.

With these observations, **CRM 220 of 2021** stands **disposed of**.

All parties shall act in terms of copy of this order downloaded from the official website of this Court.

Urgent Xerox certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Subhasis Dasgupta, J.)

(Subrata Talukdar, J.)