

24.02.2021

Item No.21

Ct.No.28

dc.

Allowed

C.R.M. 560 of 2021

with

C.R.A.N. 1 of 2021

(Via Video Conference)

In Re : An Application for bail under Section 439 of the Code of Criminal Procedure.

And

In Re : **Bijoy Chowdhury @ Bijay Chowdhury**
... Petitioner.

Mr. Arnab Saha
... For the Petitioner.

Mr. P. K. Datta,
Mr. Santanu Deb Roy
... For the State.

Mr. Abhimanyu Banerjee
... For the *de facto* complainant.

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Gazole P.S. Case No. 195 of 2020 dated 26.04.2020 under Sections 376/323/109 of the Indian Penal Code.

The learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated. The victim lady is married and willingly entered into the alleged relationship with the petitioner. Upon conclusion of investigation, charge-sheet has already been filed and as such, further detention of the petitioner, who is in custody for 301 days, is not necessary.

The learned advocate appearing for the *de facto* complainant admits that there was a previous relationship and she is willing to marry the petitioner. However, that could not be performed since the prior marriage has not yet been dissolved. He further submits that the *de facto* complainant has filed an application being CRAN 1 of 2021 to intervene in this matter. The said application is treated as on day's list.

The learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to several documents in the case diary.

Having heard the learned advocates and considering the materials in the case diary, the nature of allegations and the submissions advanced on behalf of the *de facto* complainant and since the petitioner is in custody for more than 301 days, we are of the opinion that further custodial detention of the petitioner is not warranted.

Accordingly, we direct that the petitioner, namely, **Bijoy Chowdhury @ Bijay Chowdhury** 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 Chief Judicial Magistrate, Malda and on a further condition that the petitioner shall stay outside the jurisdiction of Gazole Police Station, save and except for attending the trial court on the dates fixed for hearing. The petitioner shall also

inform the address where he would be residing to the Officer-in-Charge of Gazole Police Station.

With the aforesaid observations, the application for bail being CRM 560 of 2021 and the connected application being CRAN 1 of 2021 are disposed of.

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)

(Tapabrata Chakraborty, J.)