

24.06.2021

CRM 816 of 2021

Court No.28
Item No.09
(Rejected)

akd
&
ab

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Shantipur Police Station Case No. 551 of 2020, dated 23.11.2020 under Sections 341/376 of the Indian Penal Code.

And

In the matter of : **Suman Barman.**

...Petitioner

**Mr. Apalak Basu,
Mr. Nazir Ahmed.**

...For the Petitioner

**Mr. P. K. Datta,
Mr. Santanu Deb Roy.**

...For the State.

Pursuant to the leave granted by us on 18th March, 2021 the supplementary affidavit is filed today. Let the same be kept on record.

The petitioner is trying to bring on record that the de facto complainant has resiled from her statement recorded under Section 164 of the Code of Criminal Procedure as well as the complaint lodged with the police station and does not intend to proceed with the instant case.

Learned Advocate appearing for the State opposes the prayer for bail and it is submitted that there is no question of compromise in a cognizable offence unless those are enumerated under the Code of Criminal Procedure to be compounded. Since the allegation is of serious nature, it cannot be compounded under the provisions of the Code of Criminal Procedure. The petitioner has to face the trial.

In course of hearing it transpires that the case is committed to sessions trial after the filing of charge sheet. We expect that the learned Sessions Judge should be alive of the facts as has occasioned and would show alacrity over the sensitivity of the allegations in expediting the recording of evidence of the victim lady as well as the other witnesses named in the charge sheet.

We thus direct the learned Sessions Judge to fix the date of recording of evidence within one month from the date of the

communication of this order and it goes without saying that the prosecution would cite the victim lady as first witness.

Though we have observed above, but we find that the application for bail cannot be considered on the above parameter as such parameter has not been envisaged under Section 439 of the Code of Criminal Procedure nor under any other provisions of the Code of Criminal Procedure. Bearing in mind the gravity of the allegations we do not think that it is a fit case where the petitioner should be enlarged on bail at such score. The prayer for bail of the petitioner is thus rejected.

Accordingly, the application for bail being CRM 816 of 2021 is **dismissed**.

(Harish Tandon, J)

(Subhasis Dasgupta,J.)