

11.06.2021
Court No.28
SL No.124
PJ/KC

**CRM 2651 of 2021
(Through Video Conference)**

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 12.3.2021 in connection with **Raiganj P.S. Case No. 399/2020 dated 26.5.2020 under Sections 363 of the Indian Penal Code read with Section 4 of POCSO Act (corresponding to Special Case (POCSO Act) No. 30/2020;**

And

In the matter of: **Moksed Rahaman @ Raju,**

....Petitioner.

Mr. Bitasok Banerjee,
Mr. Md. Abdus Salam,

...for the Petitioner.

Mr. S.G. Mukherjee, PP
Ms. Faria Hossain,
Mr. Aniket Mitra,

...for the State.

Learned counsel for the petitioner submits that his client is in custody for more than 370 days.

The offence is under Section 363 IPC and under Section 4 of the POCSO Act. The charge under the POCSO Act has been included since the victim girl was 15 years at the time of offence.

This Court has considered the statement of the complainant under Section 164 Cr.P.C. It is clearly stated that the petitioner had administered alcoholic substance to the victim and had his way with her for over a month.

However, it is difficult for the Court to accept that the victim was under influence of alcoholic substance for a period of one full month.

Given that the petitioner and the victim were admittedly in love for some time, this Court is inclined to grant bail to the petitioner under Section 439 Cr.P.C.

Accordingly, the petitioner 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 Judge, Special Court (POCSO), Raiganj, Uttar Dinajpur, subject to condition that the petitioner shall appear before the trial Court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever and on further condition that the petitioner shall not enter the jurisdiction of the Court except for the purposes of investigation and attending Court proceedings and shall provide the address where he will reside while on bail to the Investigating Officer as well as the Court below and shall report to the Officer-in-Charge of the concerned Police Station within whose jurisdiction he will reside once in a week until further orders. The petitioner shall surrender his passport to the IO and if he does not possess passport shall submit affidavit to that effect before the IO.

In the event the petitioner fails to appear before the Trial Court without any justifiable cause, the trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

The application for bail is, thus, disposed of.

The parties shall act in terms of the copy of the order downloaded from the official website of this court.

(Biswajit Basu, J.)

(Rajasekhar Mantha, J.)