

06.07.2021

(Via Video Conference)

Court No. 28
Item No. 108
Suvayan/sb

CRM 3156 of 2021

(bail - rejected)

In Re: An application for **Bail** under Section **439** of the Code of Criminal Procedure filed on 06.04.2021 in connection with Gobordanga Police Station Case No. 113 of 2019 dated 23.07.2019 under Sections 376(2) (I) of the Indian Penal Code.

and

In the matter of: **Nikhil Bepari**

..... Petitioner

Mr. Arka Chakraborty, Advocate

.....for the Petitioner

Ms. Faria Hossain, Advocate

Ms. Baisali Basu, Advocate

..... for the State

Advocate-on-record of the petitioner undertakes to affirm and stamp the petition/application as per the Rules within four weeks from date. Subject to such undertaking the application is taken up for hearing.

The petitioner has filed the instant application for bail in connection with Gobordanga Police Station Case No. 113 of 2019 dated 23.07.2019 under Sections 376(2) (I) of the Indian Penal Code.

Learned advocate for the petitioner submits that petitioner has been languishing in custody for the last two years and even after commencement of trial, there has been no progress of trial causing serious prejudice to the petitioner.

It is further submitted that the petitioner had a love affair with the victim for some considerable period of past, and such relationship having been brought to the notice of public, the mother of the victim was forced to lodge a false case against the petitioner. According to the petitioner, further detention is unnecessary with the submission of the charge-sheet in this case.

Learned advocate for the State raises objection against the prayer for bail submitting that a deaf and dumb has been violated by the petitioner and the name of the petitioner has been directly disclosed in the statement of the victim recorded under Section 164 Cr.P.C. To enforce objection, our attention

is drawn to the statement of the victim recorded under Section 164 Cr.P.C and the medical evidence of the victim.

Having considered the submissions of respective learned counsel, it appears that admittedly, the case is passing through the stage of trial, where there has been no examination of the witnesses as yet. Since there is direct involvement of the petitioner, as disclosed in the statement of 164 of the victim, we are not inclined to grant bail to the petitioner at this stage. The prayer bail is thus consider and rejected.

We, however, appreciate the anguish expressed by the learned advocate for the petitioner that even after the commencement of the trial there is no substantial progress of the trial by recording evidence of any of the witnesses. To redress such submission of the learned advocate for the petitioner, we feel it convenient to pass a suitable order to that effect.

The learned trial court is directed to expedite the trial and if necessary to take all possible steps as per mandate available under Section 309 Cr.P.C, so that logical conclusion of the case may be reached within a reasonable period of time.

The prayer for bail is considered and **rejected**.

The application being **CRM 3156 of 2021** accordingly **disposed of**.

(Harish Tandon, J.)

(Subhasis Dasgupta, J.)