

10.12.2021.
23.
as
(Allowed)

C.R.M. 5660 of 2021

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Duttapukur P.S. Case No.420 of 2021 dated 07.06.2021 under Sections 509/376(2)(n) of the Indian Penal Code and Section 6 of the POCSO Act.

In the matter of : Sahid Afridi.

... Petitioner.

Mr. Soubhik Mitter,
Ms. Rajnandini Das.

...for the Petitioner.

Mr. Prasun Kr. Dutta, Id. A.P.P.,
Mr. Subrata Roy.

...for the State.

Heard the learned Counsels appearing on behalf of the parties.

It is submitted on behalf of the petitioner that there was a love affair between the parties. Initial complaint to the police did not allege penetrative sexual assault. Subsequently, charge sheet has been filed alleging penetrative sexual assault.

Learned Advocate appearing for the State opposes the prayer for bail and submits charge has already been framed and the date has been fixed for recording of evidence.

We have considered the materials on record. First Information Report does not speak of any penetrative sexual assault. Subsequently, statement of the victim, however, alleges penetrative sexual assault. There was a love affair

between the parties and the victim refused medical examination.

In view of the aforesaid facts and the period of detention suffered by the petitioner i.e. 186 days and as investigation is complete, we are inclined in granting bail to the petitioner.

Accordingly, the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the POCSO Act, Barasat, North 24-Paraganas 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.

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 their bail in accordance with law without further reference to this Court.

The application, being C.R.M.5660 of 2021, is disposed of.

(Bivas Pattanayak,J.)

(Joymalya Bagchi, J.)