

08.12.2021
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allowed

CRM 5746 of 2021
(via video conferencing)

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Bamongola Police Station Case No. 107 of 2021 dated 04.07.2021 under Sections 417/376/506/109 of the Indian Penal Code and Section 4 of POCSO Act.

And

In Re : Utpal Mandal petitioner

Mr. Amitabha Karmakar
Mr. Arup Kumar Bhowmick
.....for the petitioner

Ms. Faria Hossain
Mr. Aniket Mitra
..... for the State

It is submitted by the learned Counsel appearing for the petitioner that the petitioner is in custody for 114 days. It is further submitted that there was a love affair between the parties. They subsequently married. Thereafter, victim left her matrimonial home and lodged first information report.

Learned Counsel appearing for the State opposes the prayer for bail and submits that the victim was a minor.

We have considered the materials on record. Allegation of rape is required to be assessed in the light of the aforesaid submission relating to amorous relation between the parties during trial.

In view of the aforesaid facts and period of detention suffered by the petitioner, we are inclined to grant bail to the petitioner.

Accordingly, we direct that 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 under POCSO Act, Malda, subject to the condition that the petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without further reference to this Court.

The application for bail is, accordingly, allowed.

(Bivas Pattanayak, J.)

(Joymalya Bagchi, J.)