

29.11.2021
Item no.23
Court No.32
Avijit Mitra

C.R.M. 5930 of 2021 (through video conference)

In Re:- An application for bail under Section 439 of the Code of Criminal;

And

In Re : Sk. Nabi @ Sekh Nabi

.... petitioner

Mr. Sabir Ahmed,

Mr. Sandip Kumar Mandal

....for the petitioner

Mr. Rana Mukherjee,

Ms. Sujata Das,

Ms. Debjani Sahu

..... for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Bolpur Police Station Case No. 93 of 2021 dated 22.03.2021 under sections 366/325/363/506/365/366/307/376D/354(B)/395/34 of the Indian Penal Code.

Mr. Ahmed, learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated. The ingredients of Section 363 of the Indian Penal Code do not apply in the facts and circumstances of the case inasmuch as Anser Mallick was married to the victim girl as would be explicit from the marriage certificate, as produced. Upon completion of investigation chargesheet has also been submitted and as such, further detention of the petitioner, who is in custody for 260 days, is not warranted.

Mr. Mukherjee, learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to several documents in the case diary and submits that there had been no substantial change in the facts and circumstances of the case subsequent to 9th August, 2021 when the petitioner's prayer was last rejected.

Having heard the learned advocates appearing for the parties and considering the materials in the case diary, the gravity of the offence, the nature of allegations and the extent of the complicity of the petitioner in the alleged offence, we are not inclined to exercise any discretion in favour of the petitioner more so when, *prima facie*, there had been no substantial change in the facts and circumstances of the case subsequent to last rejection of the petitioner's prayer on 9th August, 2021. As such his prayer for bail is refused.

The application for bail being C.R.M. No.5930 of 2021 is dismissed.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Sugato Majumdar, J.)

(Tapabrata Chakraborty, J.)