

CRM (DB) 17 of 2022

05.04.2022
Sl. 85
Court No.29
(sourav)
(Allowed)

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with **Uluberia** Police Station Case No. **360** of **2019** dated **13.09.2019** under Section **376(3)** of the Indian Penal Code and Section **6** of the POCSO Act.

And

In the matter of: **Habibur Khan @ Habib Bur Khan**

....petitioner.

Mr. Abhijit Kumar Adhya,

...for the petitioner.

Mr. Nguive Ahmed, Ld. APP,
Ms. Trina Mitra,

... for the State.

Petitioner prays for bail.

Learned advocate appearing for the petitioner submits that the petitioner is in custody in excess of two and half years. There is hardly any possibility of the trial concluding any time soon. He refers to the medical condition of the petitioner and submits that the petitioner is suffering from Ascites. The petitioner was removed from the Uluberia Correctional Home to Presidency Correctional Home because of his medical condition. He also refers to the Forensic Examination Report dated June 30, 2021.

Learned Additional Public Prosecutor refers to the statement of the victim recorded under Section 164 of the Criminal Procedure Code and to report stating that the DNA test on the basis of the sample is not possible.

There is a Forensic Examination Report dated June 30, 2021 stating that the petitioner is not the biological father of the child born to the victim.

There is a report of the Superintendent of the Presidency Correctional Home dated March 21, 2022 in respect of the health condition of the petitioner. Such report states that the petitioner is suffering form Ascites with left side Pleural Effusion along with weight

loss, mild cough and fever and he suspected to be suffering from decimated tuberculosis.

Considering the Forensic Examination Report dated June 30, 2021 which states that the petitioner is not the biological father of the baby born to the victim and considering the health condition of the petitioner and his period of detention, we enlarge the petitioner on bail.

Accordingly, the petitioner 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 Additional Chief Judicial Magistrate, Uluberia, Howrah, subject to the condition that during bail he shall appear before the learned trial court on every date of hearing and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to comply with the conditions as enshrined hereinbefore, it is open to the trial court to cancel the bail without any further reference to this Court.

The application for bail being CRM (DB) 17 of 2022 is, thus, disposed of.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)

