

CRM (DB) 324 of 2022
(via video conference)

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

And

In Re : Rakesh Sekh

.....Petitioner

Mr. Kallol Mondal
Mr. Amanul Islam
Mr. Mishan Roy
Mr. Sourav Mukherjee
Mr. Souvik Das

.....for the Petitioner

Mr. Saswata Gopal Mukherji, Ld. PP
Mr. Aniket Mitra

.....for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioners in connection with Kotwali P.S. Case No. 2/2022 dated 01.01.2022 under Section 376 of the Indian Penal Code.

Mr. Mondal, Learned Lawyer appearing for the petitioner submitted that both the victim and the present Petitioner are neighbours. They had a consensual relationship. On exposure of the relationship, the present petitioner is falsely implicated by the victim to have herself. Since the Petitioner is in custody for about 70 days, further custodial detention may not be necessary. Accordingly, he prays for bail on any stringent condition.

Mr. Mitra, Learned Lawyer appearing for the State strongly opposed the bail on the ground that the statement of the victim recorded under Section 164 of the Cr.P.C. is strongly incriminatory and corroborated by statements of the neighbours recorded under Section 161 of the Cr.P.C.

We have heard rival submissions. Perused the case diary.

We find from the case diary that statement of the victim girl gets corroborated from the statement of neighbours. On conjoint reading of the statement of the witnesses, that of the victim girl and the medical report serious inconsistencies in the evidences appears at this stage. Since investigation has progressed much, we feel it apt that the present Petitioner, namely, **Rakesh Sekh** should be enlarged on bail on furnishing a bond of Rs.20,000/-, with two sureties of like amount each, one of whom must be a local, to the satisfaction of the learned Chief Judicial Magistrate, Nadia at Krishnagar and with further direction that the Petitioner shall not enter into the jurisdiction of Kotwali Police Station, Nadia except for attending the Learned Court below and for the purpose of meeting the Investigating Officer. He will meet the Investigating Officer once in a week till investigation is complete.

It is further directed that the petitioner shall not tamper with the evidence and/or intimidate the witnesses. He shall also attend learned Court below on all the dates, as specified for hearing.

In the event the petitioner fails to comply with the aforesaid directions, without any justifiable cause, the learned Trial Court below shall be at liberty to cancel his bail, in accordance with law, without further reference to this Court.

The application for bail, being CRM (DB) 324 of 2022, is disposed of.

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.)