

20.07.2022
38
sdas
allowed

CRM(DB) No. 2400 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kaliyaganj Police Station Case No. 240 of 2022 dated 17.05.2022 under Sections 493/376/120B/307/34 of the Indian Penal Code.

And

In Re : Samsud Huda Sarkar @ Bhua petitioner

Mr. Kallol Mondal
Mr. Krishan Ray
Mr. Arup Sarkar
Mr. Debayan Ghosh

.....for the petitioner

Mr. Prasun Kumar Dutta, learned APP
Mr. Subrato Roy

..... for the State

Mr. Sakhawat Khandakar

.... for the de facto complainant

Learned Counsel appearing for the petitioner submits that petitioner is in custody for 62 days. It is also submitted that an earlier case was lodged by the father of the victim girl alleging rape. Petitioner was enlarged on bail. Subsequently in 2021 he married another lady. Thereafter he has been falsely implicated in the instant case.

Learned Counsel appearing for the State opposes the prayer for bail. He submits that the petitioner and the victim had resided together in a hotel.

Learned Counsel appearing for the de facto complainant also opposes prayer for bail and submits that the petitioner had suppressed his marital status and cohabited with the victim.

We have considered the materials on record. It appears there was a love affair between the petitioner and the victim girl. A prior criminal case was lodged against him by the father of the victim girl. Subsequently he had married in 2021. It is contended that he suppressed his marital status and continued cohabitation with the victim. There are materials to show that the parties had cohabited in 2022. In view of close association between the petitioner and the victim girl who appears to have continued cohabitation with the petitioner notwithstanding the registration of a prior criminal case against him at the behest of her father, her lack of knowledge with regard to marital status of the petitioner requires to be assessed in the light of the aforesaid circumstances during trial.

Keeping in mind the aforesaid facts and circumstances of the case and the period of detention suffered by the petitioner, we are inclined to grant bail to him.

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 Chief Judicial Magistrate, Uttar Dinajpur at Raiganj, on conditions that he shall not intimidate the witnesses or tamper with evidence in any manner whatsoever and he shall appear before the trial court on every date of hearing.

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

The application for bail is, accordingly, allowed.

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)