

03.01.2022
Court No.32
Item No. 20
Avijit Mitra

C.R.M. 8094 of 2021

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

And

In Re : Prasenjit Ghosh @ Prasajit Ghosh

Petitioner

Mr. Kallol Mondal,
Mr. Musharraf Alam Sk.

For the Petitioner

Mr. S.S. Imam,
Mr. S, Kundu

For the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Malda Police Station Case No. 339 of 2020 dated 20.06.2020 under sections 363/365 of the Indian Penal Code read with Section 6 of POCSO Act.

Mr. Mondal, learned advocate appearing for the petitioner submits that the petitioner had a long-standing relationship with the victim since the year 2019. She willingly accompanied the petitioner and no complaint was lodged by the petitioner's parents till the month of June, 2021. The victim girl came back to her residence on 6th June, 2021 and 14 days thereafter, the complaint was registered. The ingredients of Sections 363/365 are not attracted against the petitioner and in view thereof, further detention of the petitioner, who is in custody for about 55 days, is not warranted.

Mr. Kundu, learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to the statement of the victim girl, as recorded under Section 164 of the Code and the medical report. From the medical report dated 23rd June, 2020, it appears that the petitioner was carrying a living *foetus*.

Having heard the learned advocates appearing for the respective parties and considering the materials in the case diary, the severity of the offence, the nature of allegations and the extent of complicity of the petitioner, who is a married person, in the alleged offence, we are not inclined to exercise any discretion in his favour and as such, his prayer for bail is refused at this stage.

Accordingly, the application for bail, being CRM No.8094 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)