

CRM 8266 of 2021
(via video conference)

Re: An application for bail under Section 439 of the Code of Criminal Procedure.

In the matter of : **Laltu Roja @ Ibrahim Mondal**
..... petitioner

Md. Sabir Ahmed
Mr. Apan Saha

.....For the petitioner

Mr. Saswata Gopal Mukherji, Ld. PP
Ms. Faria Hossain
Mr. Aniket Mitra

.....For the State

Mr. Sudipta Kumar Bose

.....For the *de facto* complainant

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Dadpur Police Station Case No. 174/2021 dated 31.10.2021 under Sections 376(2)(n)/420/406/506 of the Indian Penal Code.

Mr. Ahmed, learned lawyer appearing for the petitioner submitted that the present petitioner is falsely roped in the instant case without any basis. In fact, he had a love relation with the victim resulting in consensual physical relationship. Both the parties are adult. The present petitioner is in custody for about 120 days. Charge sheet has been filed. Further custodial detention for interrogation is not necessary. Accordingly, he prays for anticipatory bail on any stringent condition on assurance that he will never attempt to tamper any evidence or influence any witness.

Mr. Mitra, learned lawyer appearing for the State candidly admitted that there are some contradictions between the statements of the victim recorded under Section 161 as well as Section 164 of the Code of Criminal Procedure. However, he opposed the bail on the ground that allegation is grave and serious.

Mr. Bose, learned lawyer appearing for the *de facto* complainant strongly opposed the bail on the ground that the contradiction in the statement of the victim is result of influence exercised by the accused on her. In fact, statement of the victim recorded under Section 161 of the Cr.P.C. is the true version which corroborates the allegation of written complaint. He further submitted that the present petitioner has duped so many ladies and has so many antecedents of debauchery and criminal activities that grant of bail to the present petitioner would ruin the case. Accordingly, he strongly opposed the bail.

We have heard the rival submissions. Perused the case diary.

The written complaint was lodged on 31st October, 2021 alleging the present allegations. On the same day, statement of the victim was recorded under Section 161 of the Cr.P.C. which corroborates the allegations mentioned in the written complaint. On the very next day, her statement was recorded under Section 164 of the Cr.P.C. It is submission of Mr. Bose that the present petitioner influenced the victim in between period so that the petitioner may be exonerated. Under

influence of the present petitioner, a contradictory statement inconsistent with the written complaint, was made by the victim. But in the case diary, we find nothing of that sort which may indicate exercise of any influence by the present petitioner on the victim. This reasoning does not sound plausible or is convincing in any way.

Victim's medical examination was conducted on 1st November, 2021 and the alleged incident last took place in January, 2021. Medical examination at belated stage does not reveal any injury.

We have considered the contradiction in the statement of the victim within a gap of 24 hours where on the one hand, she alleged rape against the present petitioner and on the other hand, she expressed that she is desirous of marrying the present petitioner and had love relation with him since 2020. Only thing she demanded is marriage with the present petitioner.

We have also considered that investigation is complete and further custodial detention is not necessary. On perusal of the case diary and other materials and giving anxious consideration to the facts and the circumstances of the case along with available materials, we are inclined to allow anticipatory bail to the petitioner, namely, **Laltu Roja @ Ibrahim Mondal** 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, Chinsurah, Hooghly and with further direction

that the petitioner shall not enter the jurisdiction of Jorabagan Police Station and further that he shall not leave the jurisdiction of Dadpur Police Station except for attending the Court without prior permission of the Inspector-in-Charge of the said Dadpur Police Station and further that he will meet with the Inspector-in-Charge of Dadpur Police Station once in a fortnight till further orders. It is further directed that the petitioner shall surrender the passport to the Inspector-in-Charge of Dadpur Police Station, if any, within seven days from passing of this order or affirm an affidavit that he has no passport.

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 8266 of 2021, 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.)