

07.02.2022
Court No.32
Item No.37
Avijit Mitra

C.R.M. 8815 of 2021 (Through video conference)

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

And

In Re : Mirja Mujibar Rahaman

.... Petitioner

Mr. Sumanta Chakraborty

...for the petitioner

Mr. Saibal Bapuli,

Mr. Bibaswan Bhattacharya

...for the State

The present application for bail has been preferred in connection with Goghat Police Station Case No.312 of 2021 dated 06.11.2021 under Sections 376(2)(n)/506 of the Indian Penal Code.

Mr. Chakraborty, the learned advocate appearing for the petitioner submits that the allegations levelled against petitioner are unfounded. The relationship between the petitioner and the victim was consensual in nature. Both the petitioner and the victim are adults. Upon completion of investigation chargesheet has been submitted and as such, further detention of the petitioner, who is in custody for more than 90 days, is not warranted. He may be enlarged on bail on any stringent condition.

Mr. Bhattacharya, the learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to the statement of the witnesses including the statement of the victim lady as recorded under Section 164 of the Code as well as the medical report.

We have perused the materials in the case diary including the statement of the victim, as recorded under Section 164 of the Code, wherefrom it appears that she was having relationship with the petitioner for more than three months. Being an adult lady she was aware of the consequences of such relationship. She became pregnant. However, she refused DNA test. Considering the nature of accusations, the period of detention already suffered by the petitioner and the extent of his complicity in the alleged offence we are of the opinion that further detention of the petitioner is not necessary more so when, upon completion of investigation chargesheet has been submitted.

Accordingly, we allow this application and direct that the petitioner, namely, **Mirja Mujibar Rahaman**, shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be a local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Arambagh,.

The petitioner shall attend the learned Court below on all the dates, as specified for hearing and shall not intimidate the witnesses or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioner fails to comply with the aforesaid directions without any justifiable cause, the learned trial court would be at liberty to cancel their bail without any further reference to this Court.

With the aforesaid observations, the application for bail, being CRM No.8815 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)