

07.09.2022
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allowed

CRM(DB) No. 3023 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Katwa Police Station Case No. 298 of 2022 dated 02.06.2022 under Sections 376/313 of the Indian Penal Code.

And

In Re : Dilip Debnath @ Kalachand Debnath petitioner

Mr. Ayan Bhattacharya
Mr. A. Das Chakraborty
Mr. Sagnik Mukherjee
.....for the petitioner

Ms. Zareen N. Khan
Mr. Arup Sarkar
..... for the State

Learned Counsel for the petitioner submits he is in custody for 96 days. Investigation is complete. It is also submitted that victim was a major lady at the time of cohabitation. Abortion was with the consent of the victim lady.

Learned Counsel appearing for the State opposes prayer for bail.

We have considered materials on record. Allegation of rape requires to be assessed in the light of the submission that there was consensual relationship between two adults. Keeping in mind the aforesaid circumstances and period of detention suffered by the petitioner and as investigation is complete, 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 Additional Chief Judicial Magistrate, Katwa, Purba Bardhaman, on condition 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.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)