

27.09.2022
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allowed

CRM(DB) No. 3259 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Habibpur Police Station Case No. 141 of 2022 dated 29.04.2022 under Sections 341/323/376 of the Indian Penal Code.

And

In Re : Swapan Tudu petitioner

Mr. Ali Ahasan Alamgir
Mr. Atarul Hoque Molla
Ms. Rabia Khatoon
Ms. Soma Pal

.....for the petitioner

Mr. Debabrata Chatterjee
Mr. Santanu Chatterjee

..... for the State

Learned Counsel for the petitioner submits he is in custody for 151 days. It is also submitted that there was a love affair between the parties and allegation of forcible rape is out and out false. He prays for bail.

Learned Counsel appearing for the State opposes prayer for bail.

We have considered materials on record including statement of the victim lady. Her statement shows there was prior intimacy between the parties. Allegation of forcible rape requires to be assessed in the light of the aforesaid factual matrix during trial. Keeping in mind the aforesaid circumstances and period of detention suffered by the petitioner, we are inclined in granting 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, Malda, 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.)