

17.11.2022
tkm/ct 28
sl no. 27

C.R.M. (DB) 4012 of 2022

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Daspur P.S case no. 64 of 2022 dated 17.2.2022 under sections 341/376AB/354D/506 of the IPC and sections 6 and 12 of the POCSO Act
and

Allowed

In Re : Sourav Samanta petitioner

Mr. S Agarwal
Mr. T N Sarkar

..... for the petitioner

Mr. N Ahmed
Ms. Jonaki Saha

..... for the State

Petitioner submits there is a family dispute between himself and the mother of the victim girl. A prior FIR was lodged against him being Daspur PS case no 500 of 2021 dated 27.10.2021. There is no whisper of rape on the minor in the said report. Subsequently, in January 2022 an application under section 156 (3) Cr.P.C was taken out by the de facto complainant alleging sexual assault on her daughter in May 2021. Such allegation is patently absurd and inherently improbable. He prays for bail.

Learned lawyer for the State opposes the prayer for bail and submits examination of witnesses have commenced.

We have considered the materials on record. A prior criminal case was registered by the de facto complainant against the petitioner in October 2021. In the said case there is no whisper of sexual assault on the minor which is alleged to have occurred in May 2021. After a lapse of more than seven months, an application under section 156(3) of the Cr.P.C came to be filed and FIR was registered. Inordinate delay and the absence of the aforesaid accusation in the prior FIR throws serious doubt with regard to credibility of the prosecution case.

In view of the aforesaid circumstances and the period of detention suffered by the petitioner i.e. more than 200 days, we are inclined to grant bail to the petitioner, however, subject to conditions.

Accordingly, the petitioner be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local to the satisfaction of the learned Judge, Special court under POCSO Act, Paschim Medinipur on condition that the petitioner shall appear before the trial court on every date of hearing and shall not intimidate witnesses or tamper with evidence in any manner whatsoever and on further condition that the petitioner while on bail shall not enter the jurisdiction of Daspur P.S until further orders except for purpose of investigation and attending court proceeding and shall provide address where he shall presently reside to the investigating officer as well as to the court below and shall report to the officer in charge of the P.S concerned within whose jurisdiction he shall presently reside once in a week until further orders.

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 automatically without reference to this court.

The application being CRM (DB) 4012 of 2022 is disposed of.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)