

28.11.2022
45
sdas
allowed

CRM(DB) No. 4172 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Itahar Police Station Case No. 446 of 2022 dated 11.08.2022 under Section 4 of the POCSO Act subsequently added Section 6 of the POCSO Act.

And

In Re : Chinmoy Das petitioner

Mr. Soumyajit Das Mahapatra
Mr. Jisan Iqubal Hossain
.....for the petitioner

Mr. Swapan Banerjee
Mr. Anindya Sundar Chatterjee
..... for the State

Learned Counsel appearing for the petitioner submits he is in custody for three weeks. It is also submitted that there are series of criminal cases pending by and between the parties. During pendency of the application of pre-arrest bail before this Court, he was arrested. Since then, he is in custody.

Learned Counsel appearing for the State opposes the prayer for bail.

We have considered the materials on record including statement of the minor girl. She stated she was ravished by the petitioner on number of occasions and lastly on 10.07.2022. There is delay of about a month in lodging F.I.R. Ordinarily delay in lodging F.I.R. would not affect credibility of a case involving rape of minor but in the present case we note there is prior enmity between the parties.

Keeping in mind the aforesaid facts, we are inclined to grant bail to the petitioner.

Accordingly, we direct that the petitioner 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 local, to the satisfaction of the learned Judge, Special Court under POCSO Act, Raiganj, Uttar Dianjpur, on further conditions that while on bail the petitioner shall remain within the jurisdiction of Raiganj Police Station until further orders except for the purpose of attending court proceeding and shall report to the Officer in Charge of the Raiganj Police Station once in a week until further orders. Petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)