

30.11.2022
Sl. No.23
akd
[PARTLY
ALLOWED]

C. R. M. (DB) 4204 of 2022

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 22.11.2022 in connection with Debra Police Station Case No. 410 of 2022 dated 22.08.2022 under Sections 448/342/376D/386/506/509/323/325/34 of the Indian Penal Code and Section 6 of the POCSO Act.

And

In Re: ***Bablu Murmu & Ors.***

... .. Petitioners

Md. Asraf Ali

... .. for the petitioners

Mr. Pradipta Ganguly

... .. for the State

It is submitted on behalf of the petitioners that they are in custody for about 100 days. It is further submitted petitioners have been falsely implicated in the instant case. Investigation is complete.

Learned advocate appearing for the State opposes the prayer for bail and submits petitioners had abducted three victims, two of whom were raped.

We have considered the materials on record. Statements of witnesses including the victims show they had been abducted from the house of one Kalpana. Thereafter, they were kept in a club room. Therefrom they were taken to another place and raped by petitioner nos.1, 6 & 7. Though there are some materials against petitioner nos.2, 3, 4 & 5 with regard to the alleged abduction, there is no clear evidence with regard to their presence in course of the subsequent offence of rape in the statements of the victims recorded under Section 164 of the Code of Criminal Procedure.

Under such circumstances, we are of the opinion further detention of the accused/petitioner nos.2, 3, 4 & 5 is not necessary.

Therefore, the accused/petitioner nos.2, 3, 4 & 5 namely **(2) Bimal Murmu, (3) Shambhu Tudu, (4) Milan Murmu @ Bapi & (5) Laxmikanta Murmu**, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only) each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional District & Sessions Judge, 2nd Court, Paschim Medinipur subject to condition that the said petitioner nos. 2, 3, 4 & 5 shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever and on further condition that they shall meet the Officer-in-charge, Debra Police Station once in a week until further orders.

In the event they fail to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel their bail automatically without reference to this court.

However, there are materials showing petitioner nos.1, 6 & 7 have committed rape on the victims. Keeping in mind the aforesaid fact, we are not inclined to grant bail to petitioner nos.1, 6 & 7 namely, **(1) Bablu Murmu, (6) Amit Murmu & (7) Bikas Saren** at this stage.

The application for bail is thus disposed of.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)