

24.01.2023.
25.
as
(Allowed)

C.R.M. (DB) 109 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Sainthia P. S. Case No.307 of 2022 dated 11.10.2022 under Section 376(1) of the Indian Penal Code and under Sections 4/6/12 of the POCSO Act.

In the matter of : Sk. Najiruddin @ Najir @ Sekh Nahir.
.... Petitioner.

Mr. Arnab Chatterjee,
Mr. Sujoy Sarkar.
...for the Petitioner.

Mr. Saibal Bapuli, Id. A.P.P.,
Mr. Arnani Bhattacharyya.
...for the State.

Affidavit of service filed in Court today be kept on record.
Intimation to the survivor is also placed on record. Nobody appears for the survivor.

Petitioner is in custody for 105 days. It is contended on behalf of the petitioner that the instant case is a counter blast to a criminal case lodged by his daughter, Ismatara Bibi. He prays for bail.

Learned Advocate for the State produces the case diary.

We have considered the materials on record including the statement of the survivor recorded under Section 164 of the Criminal Procedure Code. Earlier, a criminal case was registered by the daughter of the petitioner against the family members of the survivor. In counter blast, another case was registered against the petitioner being Sainthia Police Station Case No.134 of 2022 dated 15.5.2022. Petitioner was granted pre-arrest bail. Subsequently, the present case has been

lodged. Allegation of forcible rape requires to be assessed in the light of the previous enmity between the parties.

Under such circumstances and in view of the period of detention suffered by the petitioner, we are inclined to grant bail to the petitioner.

Accordingly, the petitioner viz., Sk. Najiruddin @ Najir @ Sekh Nahir 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 the POCSO Act, Suri, Birbhum subject to condition that he 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 the petitioner while on bail shall not enter the jurisdiction of Sainthia Police Station except for the purposes of investigation and/or attending court proceeding and shall provide the address where he shall reside while on bail to the Investigating Officer as well as the court below and report to the Officer-in-charge of the concerned Police Station within whose jurisdiction he shall reside once in a week until further orders.

In the event the petitioner fails to appear before the Trial Court without any 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, thus, disposed of.

(Ajay Kumar Gupta,J.)

(Joymalya Bagchi, J.)

