

30.01.2023  
tkm/ct 28  
sl no. 42

**C.R.M. (DB) 320 of 2023**

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Malda P.S case no.496 of 2022 dated 1.11.2022 under sections 376(2)(n) IPC  
and

**Allowed**

In Re : Sitesh Rajbanshi

..... petitioner

Md. Sabir Ahmed  
Mr. Suman Biswas

..... for the petitioner

Mr. Swapan Banerjee  
Ms. Purnima Ghosh

..... for the State

Petitioner is in custody for 89 days. It is submitted victim was major and there was a consensual relationship between the parties. He prays for bail.

Learned lawyer for the State opposes the bail prayer.

We have considered the materials on record. Allegation of rape requires to be assessed in the light of the aforesaid submission made on behalf of the petitioner. Balancing the nature of accusation with the period of detention suffered by the petitioner, we are inclined to grant bail to him.

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 CJM Malda 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.

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) 320 of 2023 is disposed of.

**(Ajay Kumar Gupta, J.)**

**(Joymalya Bagchi, J.)**