

20.02.2023.
26.
Ct.No.28
as
(Allowed)

C.R.M. (DB) 451 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Hemtabad P. S. Case No.40 of 2021 dated 11.04.2021 under Sections 376(2)/323/506 of the Indian Penal Code read with Section 6/17 of the POCSO Act.

In the matter of : Hossain Ali.

.... Petitioner.

Mr. Ayan Basu,
Mr. Amit Roy,
Mr. Sumit Routh.

...for the Petitioner.

Mr. Swapan Banerjee,
Mr. Anindya Sundar Chatterjee.

...for the State.

Mr. Malay Bhattacharyya.

...for the de-facto complainant.

Petitioner is in custody for 153 days. It is submitted there was a love affair between the parties who are related to one another. He renews his prayer for bail.

Learned Advocate for the State opposes the bail prayer. He submits petitioner had forcibly raped the minor.

Learned Advocate for the de-facto complainant submits petitioner is a married man.

This, however, is disputed by the petitioner.

We have considered the materials on record. Petitioner and the minor appear to have cohabited with each another. Incident was reported only after a child was born. Allegation of

forcible rape has to be examined in the light of the aforesaid circumstances.

Under such circumstances and in view of the period of detention suffered by the petitioner, we are of the opinion he may be enlarged on bail, however, subject to conditions.

Accordingly, the petitioner viz., Hossain Ali 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, Raiganj, Uttar Dinajpur 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 Hemtabad Police Station and shall provide the address where he shall presently 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.)

