

23.02.2023
34
sdas
allowed

CRM(DB) No. 537 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Ekbalpore Police Station Case No. 39 of 2020 dated 07.02.2020 under Section 376DA of the Indian Penal Code and Sections 6/17 of the POCSO Act.

And

In Re : Sanjay Mirdha petitioner

Mr. Deepak Prahladka
Ms. Reshmi Khatun

.....for the petitioner

Mr. Swapan Banerjee
Mrs. Manasi Roy

..... for the State

Learned Counsel for the petitioner submits he is in custody for more than three years. It is also submitted he is not the principal offender and was not present at the time of the incident. He prays for bail.

Learned Counsel for the State opposes the prayer for bail and submits that the offence was committed in the room belonging to the petitioner.

We have considered the materials on record. Though the room is said to belong to the petitioner, he was not present when the incident occurred. Whether he shared common intention with co-accuseds to commit rape requires to be assessed during trial. Vulnerable witness i.e. the victim has already been examined. Keeping in mind the extent of complicity of the petitioner and the

period of detention suffered by him, we are inclined to grant bail to him.

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 Additional Sessions Judge, 2nd Court, Alipore, South 24 Parganas, on further conditions that while on bail the petitioner shall not enter into the jurisdiction of Ekbalpore Police Station until further orders except for the purpose of attending court proceeding and shall provide the address where he shall presently reside to the investigating agency and court below and shall report to the Officer in Charge of the Ekbalpore 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.)