

22.02.2023.
23.
Ct.No.28
as
(Allowed)

C.R.M. (DB) 721 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Dutta Pukur P. S. Case No.387 of 2019 dated 07.06.2019 under Sections 376(2)(f)(i) and 506 of the Indian Penal Code.

In the matter of : Nikunja Sikdar.

.... Petitioner.

Mr. Mrinal Kanti Mukherjee.

...for the Petitioner.

Ms. Faria Hossain,
Ms. Baisali Basu.

...for the State.

Petitioner is in custody for more than three years. It is submitted vulnerable witnesses have been examined. Victim was a major lady. He prays for bail.

Learned Advocate for the State opposes the bail prayer. He submits victim was deaf and dumb. Petitioner took advantage of her weakness and raped her.

We have considered the materials on record. True, victim is deaf and dumb. However, it is contended she was major and petitioner had not raped her. These conflicting views require to be assessed during trial. Vulnerable witnesses have already been examined. There is no possibility of winning them over.

Under such circumstances, we are inclined to grant bail to the petitioner.

Accordingly, the petitioner viz., Nikunja Sikdar 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 District & Sessions Judge, 5th Court, Barasat, North 24-Paraganas 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.

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.)