

01.03.2023

43

Ct. No. 29

CHC

Allowed

C.R.M.(DB) 798 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Kharagpur** Police Station Case No. **102** of **2022** dated **26.11.2022** under Sections 417/376(2)(n)/376(3)/509/506/34 of the Indian Penal Code and under Section 6 of the Protection of Children from Sexual Offences Act.

And

In the matter of: A Shyam Prasad @ A Shyamaprasad
..... petitioner

Mr. Soumyajit Das Mahapatra,
Ms. Madhurai Sinha
....for the petitioner

Mr. Arijit Ganguly,
Md. Kutubuddin
....for the State

Mr. Atis Kumar Biswas,
Ms. Jyoti Agarwal,
Mr. Vishol Gupta
...for the de facto complainant

Petitioner, State and de facto complainant are represented.

The police complaint was lodged on November 26, 2022.

When the police complaint was lodged, de facto complainant was a major. The claim of the de facto complainant

is that on the promise for marriage the petitioner cohabited with the de facto complainant even when she was a minor.

The complaint was lodged when the de facto complainant was a major which relates back to the incident claimed to be occurring prior in point of time and when the de facto complainant was a minor. The issue as to whether, the petitioner entered into physical relationship with the de facto complainant at all or not when the de facto complainant was a minor and whether, there was any physical relationship and whether, such relationship was made on the basis of the promise of marriage as claimed, the issues which are required to be decided at the trial.

Considering the period of detention of the petitioner and the fact that the police filed chargesheet and considering the materials in the case diary we grant bail to the petitioner.

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 Judge, Special Court, under POCSO Act, Paschim Medinipur, subject to the condition that the 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 any justifiable cause, the trial court shall be at liberty to cancel the bail of the petitioner without further reference to this Court.

The application for bail is, accordingly, allowed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)