

16.03.2023
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allowed

CRM(DB) No. 816 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Harishchandrapur Police Station Case No. 909 of 2022 dated 30.09.2022 under Sections 363/365 of the Indian Penal Code read with Section 6 of the POCSO Act.

And

In Re : Md. Nazrul @ Saddam Hossain petitioner

Mr. Kalidas Saha
.....for the petitioner

Ms. Debjani Dasgupta
Mr. Debabrata Chatterjee
..... for the State

Learned Counsel for the petitioner submits he has married the victim under Muslim Rites and Customs Act.

Learned Counsel for the State opposes the prayer for bail and submits that the marriage was a forceful one. Father of the minor/defacto complainant is present in Court.

We have considered the materials on record. There was a prior marriage between the parties. Allegation of forcible rape requires to be assessed during trial. Keeping in mind the facts and circumstances of the case and period of detention suffered by the petitioner, 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 Judge, Special Court under POCSO Act, Chanchal, Malda, on further conditions that while on bail

the petitioner shall remain within the district Malda and shall not enter the jurisdiction of Harishchandrapur 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 Police Station concerned 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.)