

28.03.2023
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allowed

CRM(DB) No. 1022 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Gazole Police Station Case No. 515 of 2022 dated 02.07.2022 under Sections 4/18 of the POCSO Act.

And
In Re : Ukil Murmu petitioner

Mr. Amitabha Karmakar
Mr. Arup Kumar Bhowmick
....for the petitioner

Mr. Tanmoy Kumar Ghosh
Mr. Arindam Sen
.... for the State

Learned Counsel for the petitioner submits he is in custody for six months. It is also submitted daughter of the petitioner was raped by the father of the victim. A criminal case was registered. In retaliation, the present case has been lodged falsely implicating the petitioner in the crime. He prays for bail.

Learned Counsel for the State opposes the prayer for bail.

Victim is present in Court with her mother. They also oppose the bail prayer.

We have considered the materials on record including the statement of the minor. She alleges that the petitioner trespassed into the room and ravished her. Materials on record show there was prior enmity between the parties. Credibility of the allegations require to be assessed in the light of the aforesaid prior enmity. There is also delay in lodging FIR. Under such circumstances, we are inclined to 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, Malda, subject to the conditions that 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.)