

30.03.2023
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allowed

CRM(DB) No. 1059 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Nalhati Police Station Case No. 359 of 2022 dated 07.09.2022 under Sections 363/365 of the Indian Penal Code read with Section 4 of the POCSO Act.

And
In Re : Mir Hasan Sk. @ Mirku Sk. petitioner

Mr. Bitasok Banerjee
....for the petitioner

Mr. Bidyut Kumar Roy
Ms. Rita Datta
.... for the State

Report submitted by the learned Counsel for the State is placed on record.

Learned Counsel for the petitioner submits he is in custody for 202 days. It is also submitted there was a love affair between two young persons.

Inspite of notice nobody appears for the victim.

We have considered the materials on record. Allegation of rape requires to be assessed during trial in the light of the aforesaid submission made on behalf of the petitioner. He is in custody for 202 days. 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 (POCSO), Rampurhat, Birbhum, subject to 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.)