

23.03.2023
tkm/ct 28
sl no. 47

C.R.M. (DB) 1072 of 2023

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Domkal PS case no. 556 of 2022 dated 6.9.2022 under sections 448/376 IPC
and

Allowed

In Re : Asraful Mondal @ Asraful Mandal @ Talep Mondal
..... petitioner

Mr. Arnab Chatterjee
Mr. Anisur Rahman
Ms. D Biswas
Ms. P Bose

..... for the petitioner

Mr. T K Ghosh
Mr. Arindam Sen

..... for the State

Mr. Susnigdho Bhattacharyya
..... for the de facto complainant

Petitioner is in custody for 123 days. It is submitted that there was prior enmity between the parties. There is delay in lodging FIR. He has been falsely implicated. He prays for bail.

Learned lawyer for the State opposes the bail prayer. He submits victim had undergone a cesarean section.

Though it is alleged victim was raped immediately after giving child birth through cesarean section, no immediate medical assistance was availed by the victim. On the other hand, there is delay of over one month in lodging FIR. Credibility of the accusation requires to be assessed in the light of the aforesaid circumstances during trial.

Keeping in mind the aforesaid facts and the period of detention suffered by the petitioner, we are inclined to grant bail to the petitioner.

Accordingly, the petitioner 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 CJM, Murshidabad at Berhampore on condition that the petitioner shall appear before the trial court on every date of hearing and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

The application being CRM (DB) 1072 of 2023 is disposed of.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)