

27.03.2023
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allowed

CRM(DB) No. 1108 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Domkal Police Station Case No. 700 of 2022 dated 04.11.2022 under Sections 448/376 of the Indian Penal Code.

And
In Re : Rajibul Mondal @ Md. Rajbul Hoque petitioner

Mr. Somnath Adhikary
....for the petitioner

Mr. Binay Panda
Mr. Subham Bhakat
..... for the State

Learned Counsel for the petitioner submits there is a matrimonial dispute between the defacto complainant and brother of the petitioner. He was falsely implicated in an earlier case and has been released on bail. Subsequently he has been implicated in the present case. There is delay in registering F.I.R. He prays for bail.

Learned Counsel for the State opposes the prayer for bail.

Investigating officer is present. He produces the case diary.

We have considered the materials on record. There is a matrimonial dispute between the brother of the petitioner and the defacto complainant. Petitioner is the brother-in-law of the defacto complainant. There is delay of about a month in lodging the present F.I.R. Allegation of rape requires to be assessed in the light of the aforesaid delay and the prior enmity between the parties during trial. Keeping in mind the aforesaid facts and the

period of detention suffered by the petitioner i.e. 100 days and as investigation is complete, 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 Chief Judicial Magistrate Murshidabad at Baharampur, 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.)