

10.04.2023
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allowed

CRM(DB) No. 1143 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Chanditala Police Station Case No. 352 dated 27.07.2022 under Sections 376(2)(n) of the Indian Penal read with Section 6(1) of the POCSO Act.

And
In Re : Abhijit Bag petitioner

Mr. Amajit De
Ms. Shakshi Rathi
Mr. Pratik Acharjee
.....for the petitioner

Mr. Atif Ahmed Siddiqui
.... for the State

Mr. Bholanath Ghosh
Mr. S. D. Adhikary
.... for de facto complainant

Learned Counsel for the petitioner submits he is in custody for 265 days. It is also submitted there was a love affair between the parties. He prays for bail.

Learned Counsel for the State opposes the prayer for bail.

Learned Counsel for the defacto complainant submits his client was a minor. Parties got acquainted over social media. Subsequently she was raped.

We have considered the materials on record. Statement of the minor discloses there was an intimate relationship between the parties. Though the victim is a minor and her consent is not relevant it cannot also be lost sight of that there was an intimate relationship between two young persons. Allegation of forcible/coercive rape also requires to be assessed in the light of the

aforesaid prevailing relationship. Keeping in mind the aforesaid facts and the 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 Additional Chief Judicial Magistrate, Serampore, Hooghly, 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.

(Partha Sarathi Sen, J.)

(Joymalya Bagchi, J.)