

29.03.2023
Sl. No.46
akd
[ALLOWED]

C. R. M. (DB) 1205 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 22.03.2023 in connection with Kaliachawk Police Station Case No.208 of 2023 dated 25.02.2023 under Sections 498A/506/406/376/308/109/34 of the Indian Penal Code and Section 4 of the Muslim Women (Protection of Right on Marriage) Act, 2019. (G.R. Case No.1125 of 2023)

And

In Re: ***Md. Samaul Hoque @ Samaul***

... .. Petitioner

Mr. Mrityunjoy Chatterjee
Mr. Debapriya Majumder

... .. for the petitioner

Mr. Saswata Gopal Mukherjee .. Id. Public Prosecutor
Mr. Aniket Mitra

... .. for the State

Petitioner is the uncle-in-law of the de-facto complainant wife.

It is submitted on behalf of the petitioner that he is in custody for more than a month. It is further submitted allegation of rape is out and out false. Victim did not suffer any injury.

Learned Advocate for the State opposes the prayer for bail.

We have considered the materials on record. Though the victim alleges she was physically assaulted and raped, no injury is noted on her body. Local people have also not supported the allegation of rape. Possibility of false implication of the petitioner owing to matrimonial dispute cannot be wholly ruled out. Under such circumstances and in view of the period of detention suffered by the petitioner, we are of the opinion further detention of the accused/petitioner is not necessary.

Therefore, the accused/petitioner, namely ***Md. Samaul Hoque @ Samaul***, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like

amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Malda subject to condition that the said petitioner shall appear before the trial court on every date of hearing until further orders 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 for bail, thus, stands allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)