

31.03.2023
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allowed

CRM(DB) No. 1268 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Baishnabnagar Police Station Case No. 97 of 2023 dated 10.02.2023 under Sections 363/365/34 of the Indian Penal Code adding Sections 366A/506 of the Indian Penal Code and Section 6 of the POCSO Act and Sections 9/10 of the Prohibition of Child Marriage Act.

And

In Re : Samiul Sk. petitioner

Mr. Kazi M. Rahman

....for the petitioner

Mr. Arijit Ganguly

Mr. Koushik Kundu

.... for the State

Mr. Pravas Bhattacharya

.... for the defacto complainant

Learned Counsel for the petitioner submits there was a love affair between two young persons. They had also married. He prays for bail.

Learned Counsel for the State opposes the prayer for bail.

Learned Counsel for the defacto complainant submits there was a love affair between the parties.

We have considered the materials on record. Allegations of rape requires to be assessed in the light of the aforesaid submission made on behalf of the petitioner that there was a love affair between two young persons. Though victim was minor they entered into matrimony. Keeping in mind the aforesaid facts and period of detention suffered by the petitioner i.e. 46 days, 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 Chief Judicial Magistrate, Malda, 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.)