

06.04.2023
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allowed

CRM(DB) No. 1377 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Berhampore Police Station Case No. 1346 of 2021 dated 21.11.2021 under Sections 363/448/376/379/427/34 of the Indian Penal Code and subsequently charge-sheet submitted under Sections 448/376(D)/323/34 of the Indian Penal Code.

And

In Re : Bhuttu Sekh @ Bhuttu Sk. petitioner

Mr. Biswajit Sarkar

....for the petitioner

Ms. Zareen N. Khan

Mr. Ashok Das

.... for the State

Learned Counsel for the petitioner submits he is in custody for 125 days. It is also submitted there is delay in lodging FIR. He prays for bail.

Learned Counsel for the State opposes the prayer for bail.

We have considered the materials on record. There was dispute between the petitioner and brother of the victim lady. There is delay in lodging FIR. Allegation of sexual assault on the victim lady and her daughter is not supported by medical evidence. Under such circumstances, 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, Murshidabad, 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.)