

24.04.2023
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allowed

CRM(DB) No. 1419 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Namkhana Police Station Case No. 333 of 2022 dated 13.11.2022 under Section 4 of the POCSO Act.

And
In Re : Sk. Jabed petitioner

Mr. Niladri Sekhar Ghosh
Mr. Partha Sarathi Mondal
....for the petitioner

Mr. Debabrata Chatterjee, learned APP
Mr. Santanu Chatterjee
.... for the State

Learned Counsel for the petitioner submits that the allegation of rape is incorrect. He has been falsely implicated. He prays for bail.

Learned Counsel for the State opposes the prayer for bail. In spite of service of notice nobody appears for the minor victim.

We have considered the materials on record. In her initial statement before the learned Magistrate minor victim stated she was violated by a Muslim woman by inserting her finger. In the subsequent statement she stated she was violated by a man. In view of the aforesaid dichotomy and period of detention suffered by the petitioner i.e. 165 days 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 Judge, Special Court under POCSO Act, Kakdwip, South 24 Parganas, on further conditions that the

petitioner shall not enter the jurisdiction of Namkhana Police Station except for the purpose of attending court proceedings and shall provide the address where he shall presently reside to the investigating agency as well as court below and shall meet the Officer-in-Charge of the concerned police station within whose jurisdiction he shall presently reside once in a week until further orders. He 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.)