

27.04.2023
Sl. No.18
akd
[Rejected]

C. R. M. (DB) 1451 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 05.04.2023 in connection with Pursurah Police Station Case No.227 of 2022 dated 13.12.2022 under Sections 363/365/376(2)(n) of the Indian Penal Code and Section 6(1) of the POCSO Act and subsequently charge sheet submitted under Sections 363/365/376(2)(n)/120B of the Indian Penal Code and Section 6(1) of the POCSO Act. (G.R. Case No.1497 of 2022)

And

In Re: ***Samim Dewan***

... .. Petitioner

Mr. Tanmay Chowdhury
Mr. Ritoprita Ghosh

... .. for the petitioner

Mr. Niladri Sekhar Ghosh

... .. for the de-facto complainant

Ms. Anasuya Sinha
Mr. Pinak Kumar Mitra

... .. for the State

It is submitted on behalf of the petitioner there was a love affair between the parties. Medical report does not support allegation of forcible rape. Accordingly, he prays for bail.

Learned Advocate for the State opposes the prayer for bail.

Learned Advocate for the de-facto complainant also opposes the prayer for bail.

We have considered the materials on record. Victim is a minor. In her statement recorded before Magistrate, she stated she was kidnapped and detained in a house in Kolkata. There she was raped by the petitioner. Absence of injuries *per se* would not improbabilise the version of the minor victim. Vulnerable witness is yet to be examined. Under such circumstances and in view of gravity of the offence, we are not inclined to grant bail to the petitioner at this stage.

The application for bail is thus rejected.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)