

02.05.2023
Sl. No.28
akd
[ALLOWED]

C. R. M. (DB) 1511 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 10.04.2023 in connection with Ekbalpur Police Station Case No.179 of 2018 dated 04.04.2018 under Sections 376/506(II) of the Indian Penal Code read with Section 6 of the POCSO Act.

And

In Re: **Sk. Sabbir**

... .. Petitioner

Mr. Anand Kesari
Ms. Sutapa Ghosh (Bose)

... .. for the petitioner

Ms. Anasuya Sinha
Mr. Pinak Kumar Mitra

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for about five years and one month. It is further submitted DNA report shows that he is not the biological father of the child. Accordingly, he prays for bail.

Learned Advocate for the State produces the case diary.

Inspite of service, nobody appears for the minor victim.

We have considered the materials on record. Minor victim has already been examined. Petitioner is in custody for more than five years. DNA report shows he is not the biological father of the child born out of the minor victim. Under such circumstances, we are of the opinion further detention of the accused/petitioner is not necessary.

Therefore, the accused/petitioner, namely **Sk. Sabbir**, 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, South 24-Parganas at Alipore 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.)