

18.04.2023
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allowed

CRM(DB) No. 1517 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Howrah Women Police Station Case No. 38 of 2017 dated 05.08.2017 under Section 376D of the Indian Penal Code.

And
In Re : Ashok Hirawat petitioner

Mr. Jayanta Narayan Chatterjee
Mr. Supreem Naskar
Ms. Sreeparna Ghosh
Ms. Pritha Sinha
....for the petitioner

Mr. Rudradipta Nandy, learned APP
Mr. Subroto Roy
.... for the State

Learned Counsel for the petitioner submits he is in custody for more than six years. It is also submitted he is incapable of sexual intercourse. Vulnerable witness has been examined. He prays for bail.

Learned Counsel for the State opposes the prayer for bail and submits trial is in progress. Learned Counsel also submits Medical Board opined that petitioner is capable of sexual intercourse.

We have considered the materials on record. Petitioner is in custody for more than six years. Vulnerable witness has already been examined. Delay in the matter cannot be attributed to the petitioner. Keeping in mind the aforesaid 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, Howrah, 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.)