

08.05.2023
Sl. No.26
akd
[ALLOWED]

C. R. M. (DB) 1647 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 17.04.2023 in connection with Beldanga Police Station Case No.737 of 2022 dated 01.12.2022 under Sections 376/506 of the Indian Penal Code and Section 4 of the POCSO Act.

And

In Re: **Atibur Sk.**

... .. Petitioner

Ms. Minoti Gomes
Mr. Sandip Dinda
Mr. S. Chatterjee

... .. for the petitioner

Mr. Arnab Chatterjee
Mr. Jisan Iqbal Hossain

... .. for the de-facto complainant

Mr. Prasun Kr. Datta .. Id. Addl. Public Prosecutor
Mr. Santanu Deb Roy

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for more than five months. It is further submitted there was a romantic relationship between the parties. This is endorsed in the medical papers relating to the treatment of the victim. 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 and submits victim is a minor and had been forcibly ravished.

We have considered the materials on record. Injury report of the victim at Beldanga BPHC records there was a relationship between the parties for three years. Statement of the victim recorded under Section 164 of the Code of Criminal Procedure is also ambivalent. It appears there was free mixing between two young persons. Keeping in mind the aforesaid circumstances, we are of the opinion though further

detention of the accused/petitioner is not necessary, his movement requires to be restricted in the interest of justice.

Therefore, the accused/petitioner, namely **Atibur Sk.**, 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 Judge, Special Court under the POCSO Act, Berhampore, Murshidabad 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 and on further condition that the petitioner, while on bail, shall not enter the jurisdiction of Beldanga Police Station except for the purpose of investigation and shall provide the address where he shall presently reside to the Investigating Agency as well as the court below and shall report to the Officer-in-charge of the police station concerned within whose jurisdiction he shall presently reside once in a week until further orders.

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.)