

04.05.2023
Sl. No.17
akd
[ALLOWED]

C. R. M. (DB) 1807 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 27.04.2023 in connection with Baishnabnagar Police Station Case No.208 of 2023 dated 06.04.2023 under Sections 417/376/323/34 of the Indian Penal Code.

And

In Re: ***Debasish Singha***

... .. Petitioner

Mr. Arup Kumar Bhowmick

... .. for the petitioner

Mr. Saswata Gopal Mukherjee .. Id. Public Prosecutor

Mr. Parthapratim Das

Mrs. Manasi Roy

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for over one month. It is further submitted there was consensual relationship between two adults. Ingredients of the offence under Section 376 IPC are not disclosed. Accordingly, he prays for bail.

Learned Advocate for the State opposes the prayer for bail and submits petitioner cohabited with the victim on the false promise of marriage.

We have considered the materials on record. Victim was major at the time of cohabitation and was aware of the consequences thereof. Whether ingredients of the offence punishable under Section 376 IPC are disclosed may be assessed in the backdrop of the aforesaid circumstances during trial. Petitioner has permanent home and hearth and there is no possibility of his abscondence. Under such circumstances and in view of the period of detention suffered by the petitioner, we are of the opinion further detention of the accused/petitioner is not necessary.

Therefore, the accused/petitioner, namely ***Debasish Singha***, 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, Malda 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.)