

18.07.2023.
18.
Ct.No.28
as
(Allowed)

C.R.M. (DB) 2624 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Nowda P. S. Case No.122 of 2023 dated 12.04.2023 under Sections 363/365/34 of the Indian Penal Code and adding Sections 376(3) of the Indian Penal Code and Section 6 of the POCSO Act.

In the matter of : Rahul Malitya.

.... Petitioner.

Ms. Sreyashee Biswas,
Ms. Benajir Hasna,
Mr. Atiul Islam.

...for the Petitioner.

Mr. Sudip Ghosh,
Mr. Bitasok Banerjee.

...for the State.

Mrs. Sonali Das.

...for the De-facto complainant.

Petitioner is in custody for 82 days. It is submitted there was a love affair between the parties and he has been falsely implicated. He prays for bail.

Learned Advocate for the State opposes the bail prayer. He submits statement of the victim recorded under Section 164 of the Code of Criminal Procedure shows that she had been forcibly trafficked.

Learned Advocate for the victim submits there was a love affair and parties are willing to marry.

We have considered the materials on record. Victim is a minor. Her statement recorded under Section 164 of the Code of Criminal Procedure shows she was trafficked but the said statement is at variance to her earlier statement before police where she admitted love affair with the petitioner. Allegations

of trafficking requires to be assessed in the light of the aforesaid dichotomous situation recorded during investigation. Learned Advocate for the victim also does not oppose the bail prayer.

Under such circumstances, we are inclined to enlarge the petitioner on bail.

Accordingly, the petitioner viz., Rahul Malitya 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 Judge, Special Court under the POCSO Act, Murshidbad at Berhampore subject to condition that he 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 the petitioner fails to appear before the Trial Court without any 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, thus, disposed of.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)