

26.07.2023.
13.
Ct.No.28
as
(Allowed)

C.R.M. (DB) 2776 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Karimpur P. S. Case No.89 of 2023 dated 16.04.2023 under Sections 363/365 of the Indian Penal Code and adding Section 376(3) and Section 6 of the POCSO Act.

In the matter of : Biswajit Khatua.

.... Petitioner.

Mr. Asraf Mondal,
Ms. Sanjana Saha.

...for the Petitioner.

Mr. P. K. Datta, Id. A.P.P.,
Mr. Pradipta Ganguli.

...for the State.

Mr. Atis Kr. Biswas.

...for the de-facto complainant.

Petitioner submits there was a love affair between the parties and the victim had voluntarily eloped with the petitioner. Petitioner is in his early twenties and the love affair could not fructify into marriage as the victim was unhappy that the petitioner was not a single child and his poor earning potential.

Learned Advocate for the State opposes the bail prayer.

Learned Advocate for the de-facto complainant submits she was a minor and had been seduced by the petitioner. He confined her in a room and repeatedly raped her.

We have considered the materials on record. Statement of the victim shows there was free mixing between two young persons. Though it is contended victim had been forcibly taken to Howrah, such allegation requires to be thrashed out in the

light of the close and intimate relationship between the parties. It is also evident from her statement that the close relationship was fractured as the victim came to know petitioner had taken a pseudonym and was not a single child who was profitably employed at Mumbai. Allegation of forceful confinement and rape requires to be assessed in the light of the attending circumstances during trial. Petitioner is in custody for 93 days. Investigation is complete. There is no chance of abscondence.

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

Accordingly, the petitioner viz., Biswajit Khatua 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, Nadia at Tehatta 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.)

