

19.07.2023.
36.
Ct.No.28
as
(Allowed)

C.R.M. (DB) 2871 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Tehatta P. S. Case No.321 of 2023 dated 23.04.2023 under Sections 448/376/323/506/34 of the Indian Penal Code.

In the matter of : Mitaj Ahamed Shaikh.

.... Petitioner.

Mr. Soumyajit Das Mahapatra,
Mr. Amanul Islam,
Mr. Sourav Mukherjee,
Ms. Roma Roy,
Ms. Madhurai Sinha.

...for the Petitioner.

Mr. Debabrata Chatterjee, Id. A.P.P.,
Mr. Santanu Chatterjee,
Ms. Mousumi Sarkar.

...for the State.

Petitioner is in custody for 72 days. He submits he has been falsely implicated. There is delay in lodging the First Information Report. He prays for bail.

Learned Advocate for the State opposes the bail prayer.

We have considered the materials on record including the statement of the lady and her son. Victim was in the house alone with her son. Incident occurred at night inside the room. It is unclear how petitioner came into the room. There is delay in lodging the First Information Report. Allegation of forcible rape requires to be assessed in the light of the aforesaid circumstances during trial.

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

Accordingly, the petitioner viz., Mitaj Ahamed Shaikh 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 Additional Chief Judicial Magistrate, Tehatta, Nadia 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.)