

16.08.2023
Sl. No.32
akd
[ALLOWED]

C. R. M. (DB) 3033 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 26.07.2023 in connection with Kultali Police Station Case No.38 of 2023 dated 16.01.2023 under Sections 363/365/376(3) of the Indian Penal Code and Section 6 of the POCSO Act and subsequently charge sheet submitted under Sections 363/365/376(3) of the Indian Penal Code, Section 6 of the POCSO Act and Section 9 of the Prohibition of Child Marriage Act, 2006.

And

In Re: ***Rakesh Bairagi***

... .. Petitioner

Mr. Pawan Kumar Gupta
Mr. Kalyan Chatterjee
Ms. Sofia Nesar
Mr. Santanu Seth

... .. for the petitioner

Mr. Lakshmi Nath Bhattacharyya

... .. for the de-facto complainant

Mr. Swapan Banerjee
Mr. Anindya Sundar Chatterjee

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about 160 days. It is further submitted there was an amorous relationship between the petitioner and the minor victim. They married each other. Investigation is complete. Accordingly, he prays for bail.
2. Learned Advocate for the State produces the case diary.
3. Learned Advocate for the de-facto complainant opposes the prayer for bail and submits that a stupefying substance was administered to the victim and she was raped.
4. We have considered the materials on record including the statement of the minor victim. She admits there was a romantic relationship between the parties. No forensic report with regard to administration

of stupefying substance is placed on record. Investigation is complete. 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.

5. Therefore, the accused/petitioner, namely **Rakesh Bairagi**, 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, Baruipur, South 24-Parganas 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.
6. 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.
7. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)