

04.08.2023
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allowed

CRM(DB) No. 3106 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Joynagar Police Station Case No. 79 of 2023 dated 04.03.2023 under Sections 363/365 read with added Sections 366A/368 of the Indian Penal Code.

And

In Re : Sujit Sarkar petitioner

Mr. Dipayan Kundu

Mr. Subrata Ghosh

Mr. Syed Murshid Alam

....for the petitioner

Mr. Swapan Banerjee

Mr. Suman De

..... for the State

Learned Counsel for the petitioner submits victim had voluntarily left her husband. He has been falsely implicated. He prays for bail.

Learned Counsel for the State opposes the prayer for bail and submits victim became pregnant and has implicated the petitioner in the crime.

We have considered the materials on record. Allegation of forcible rape requires to be assessed in the light of the submission that the victim had voluntarily left her residence. It is also relevant to note earlier she eloped with another person. Under such circumstances and in view of period of detention suffered by the petitioner i.e. 80 days, we are inclined to grant bail to him.

Accordingly, we direct that the petitioner 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, Baruipur, South 24 Parganas, subject to conditions that petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to appear before the trial court without 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, accordingly, allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)