

16.08.2023
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allowed

CRM(DB) No. 3211 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Bagdah Police Station Case No. 213 of 2023 dated 05.04.2023 under Section 376 of the Indian Penal Code.

And

In Re : Rashid alias Rasid Biswas petitioner

Mr. Susnigdho Bhattacharyya

Ms. Bidisha Chakraborty

Ms. Laxmi Das

....for the petitioner

Mr. S. S. Imam

Mr. S. Kundu

..... for the State

1. Learned Counsel for the petitioner submits he is in custody for 135 days. It is also submitted that allegation of forcible rape is false. There is delay in lodging F.I.R. He prays for bail.

2. Learned Counsel for the State opposes the prayer for bail and submits that the petitioner had threatened the victim and her sons.

3. We have considered the materials on record. It is alleged that the victim was acquainted with the petitioner. He came to the house and forcibly raped her. Though it is pointed that her sons videographed the incident no electronic evidence is placed on record. There is delay in lodging F.I.R. Credibility of explanation with regard to delay requires to be assessed during trial. Keeping in mind the aforesaid circumstances, period of detention suffered

by the petitioner and as investigation is complete, we are inclined to grant bail to him.

4. 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 Sessions Judge, 2nd Court at Bongaon, North 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.

5. 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.

6. The application for bail is, accordingly, allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)