

01.09.2023
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allowed

CRM(DB) No. 3244 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Sagar Police Station Case No. 195 dated 22.05.2023 under Sections 376(2)(n)/506/509 of the Indian Penal Code read with Section 6(1) of the POCSO Act.

And
In Re : Subhankar Pati petitioner

Mr. Subhabrata Datta
Ms. Debjani Roy Choudhuri
.....for the petitioner

Mr. Koushik Kundu
..... for the State

1. Learned Counsel for the petitioner submits he is in custody for 102 days. It is submitted that there was a romantic relationship between the couple. Subsequent allegation of uploading obscene pictures and blackmailing her is false. It is also submitted that charge-sheet has not been filed under Section 67B of the Information Technology Act. He prays for bail.

2. Learned Counsel for the State opposes the prayer for bail and submits victim is a minor and her obscene pictures were uploaded. As a result she was blackmailed to continue the relationship.

3. In spite of notice nobody appears for the victim.

4. We have considered the materials on record. In the FIR victim admits there was free mixing between the parties. It is also alleged that the petitioner took her obscene pictures which were uploaded on social media. Though chat messages exchanged

between them have been seized no obscene picture/video uploaded on social media is placed before us. It is also relevant to note charge-sheet has not been filed under Section 67B of the Information Technology Act.

5. In view of the aforesaid circumstances and period of detention suffered by the petitioner i.e. 102 days, and as investigation is complete, we are inclined to grant bail to him.

6. 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, Kakdwip, South 24 Parganas, subject to condition 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.

7. 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.

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

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)