

24.08.2023
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allowed

CRM(DB) No. 3319 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Chandipur Police Station Case No. 42 of 2023 dated 20.02.2023 under Sections 363/365/366/376(2)(n)/306/34 of the Indian Penal Code and Section 06 of the POCSO Act and Sections 9/10 of the Prohibition of Child Marriage Act.

And

In Re : Lalu Ghorai & Anr. petitioners

Mr. Amal Krishna Samanta
....for the petitioners

Mr. Swapan Banerjee
Mr. Anindya Sundar Chatterjee
.... for the State

Mr. Pinak Kumar Mitra
Ms. Ariba Shahab
.... for the de facto complainant

1. Petitioners are the father and brother of the principal accused. They have been falsely implicated. Co-accused, Prajapati Ghorai has been enlarged on bail. They pray for similar relief.

2. Learned Counsel for the State opposes the prayer for bail and submits victim lady was tortured. As a result she committed suicide.

3. Learned Counsel for the de facto complainant also opposes the prayer for bail.

4. We have considered the materials on record. Petitioners are the relations of the principal accused. Principal accused had a romantic relationship with the victim. They started living together. Subsequently she committed suicide. Though

statements of the witnesses claimed petitioners and others had assaulted the victim no marks of injury apart from the ligature mark is noted in the post mortem report. Keeping in mind the aforesaid fact and as co-accused, Prajapati Ghorai is on bail we are inclined to extend the same relief to the petitioner.

5. Accordingly, we direct that the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- each 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-cum-Additional Sessions Judge, 2nd Court, Tamruk, Purba Mednipur, subject to condition that petitioners 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.

6. In the event the petitioners fail to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel their bail in accordance with law without further reference to this Court.

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

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)