

25.08.2023.  
24.  
Ct.No.28.  
as  
(Allowed)

**C.R.M. (DB) 3336 of 2023**

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Gazole P.S. Case No.443 of 2023 dated 02.06.2023 under Sections 4/17 of the POCSO Act read with Sections 376/506/34 of the Indian Penal Code and charge sheet submitted under Section 6 of the POCSO Act and Sections 376DA/506 of the Indian Penal Code.

In the matter of : Sanjay Hembram & Anr.

.... Petitioners.

Kazi Mokhlasur Rahman.

...for the Petitioners.

Mr. Binay Panda,

Mr. Subham Bhakat.

...for the State.

1. Liberty is given to the learned Advocate-on-record for the petitioner to correct the cause title of the petition.
2. Petitioners submit they have been falsely implicated in the case. They pray for bail.
3. Learned Advocate for the State opposes the bail prayer.
4. We have considered the statements of the minor victim and her friend. Petitioner no.1 is the principal accused who is alleged to have raped her.
5. Under such circumstances, we are not inclined to grant bail to the petitioner no.1.
6. Accordingly, the prayer for bail of the petitioner no.1 is rejected.
7. Statement of the minor victim recorded under Section 164 of the Code of Criminal Procedure does not name petitioner no.2 as the person who had assisted the petitioner no.1.

8. Keeping in mind the aforesaid fact and extent of his complicity, we are inclined to grant bail to the petitioner no.2.

9. Accordingly, the petitioner No.2 viz., Krishna Hembram 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 Chief Judicial Magistrate, Malda subject to condition that he 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.

10. In the event the petitioner fails to appear before the Trial Court without any justifiable cause, the trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

11. This application for bail is, thus, disposed of.

**(Gaurang Kanth, J.)**

**(Joymalya Bagchi, J.)**