

28.08.2023
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allowed

CRM(DB) No. 3364 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Murshidabad Police Station Case No. 379 dated 29.05.2023 under Sections 363/365/34 of the Indian Penal Code adding Section 376(3) of the Indian Penal Code, Section 4 of the POCSO Act and Section 9 of the Prohibition of Child Marriage Act and subsequently charge-sheet submitted under Sections 363/365/120B/376(3) of the Indian Penal Code read with Sections 4/6/17 of POCSO Act and Sections 9/10 of the Prohibition of Child Marriage Act.

And

In Re : Subho Karmakar @ Promoth Ranjan Karmakar petitioner

Mr. Ranadeb Sengupta
Mr. Sachit Talukdar

....for the petitioner

Mr. Soumyajit Ghoshal
Mr. Abhinaba Roy
Mr. Pinaki Brata Ghosh

..... for the de facto complainant

Ms. Anasuya Sinha
Mr. Pinak Kumar Mitra

..... for the State

1. Liberty to correct the cause title.

2. Learned Counsel for the petitioner submits he is in custody for 91 days. It is also submitted that there was a romantic relationship between the parties. Victim left her residence out of her own volition. Parents of the victim were unhappy with this development and falsely implicated the petitioner. He prays for bail.

3. Learned Counsel for the State opposes the prayer for bail.

4. Learned Counsel for the de facto complainant submits that the victim is barely 13 years old. She had been brain washed by the petitioner and was sought to be trafficked.

5. We have considered the materials on record. Apprehension expressed by the de facto complainant does not resonate in the statement of the minor recorded under Section 164 of the Code of Criminal Procedure. She contends that she was romantically involved and left her residence on her own volition. It is true the victim is a minor but prima facie materials show romantic association between the parties. Under such circumstances it does not appear that release on bail of the petitioner would impact the evidence of the minor in Court.

6. Having considered the materials on record particularly the statement of the minor who does not speak of any dishonest intention or inducement on the part of the petitioner, we are of the opinion he may be enlarged on bail subject to conditions.

7. 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 Judge, Special Court under POCSO Act, Lalbagh, Murshidabad, on further conditions that while on bail the petitioner shall not enter into the jurisdiction of Murshidabad Police Station until further orders except for the purpose of attending court proceeding and shall provide the address where he shall presently reside to the investigating agency and court below and shall report to the Officer in Charge of the Police Station concerned once in a week until further

orders. 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.

8. 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.

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

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)