

15.09.2023
Sl. No.16
akd
[ALLOWED]

C. R. M. (DB) 3435 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 28.08.2023 in connection with Netaji Nagar Police Station Case No.112 of 2023 dated 02.06.2023 under Sections 363/376(2)(i)/366A of the Indian Penal Code read with Sections 4/6 of the POCSO Act and Section 9 of the Prohibition of Child Marriage Act, 2006.

And

In Re: ***Sumanta Biswas***

... .. Petitioner

Mr. Pawan Kumar Gupta
Mr. Surojit Basu
Mr. Manoj Kurmi

... .. for the petitioner

Mr. Angshuman Chakraborty
Mr. Shashanka Shekhar Saha
Mr. Kalyan Sadhukhan

... .. for the de-facto complainant

Mr. Neguive Ahmed .. Id. Addl. Public Prosecutor
Ms. Trina Mitra

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about 81 days. It is further submitted there was a romantic relationship between the parties. Investigation is complete. Accordingly, he prays for bail.
2. Learned Additional Public Prosecutor opposes the prayer for bail.
3. Learned Advocate for the de-facto complainant also opposes the prayer for bail and submits victim was a 14-year old girl. She was seduced by the petitioner.
4. We have considered the materials on record including the statement of the victim. Petitioner is aged about 21 years while the victim is a minor. From her statement it appears there was a love affair between them. Allegation of rape requires to be assessed in the light of the aforesaid statement of the minor. Under such circumstances

and in view of the period of detention suffered by the petitioner, we are of the opinion further detention of the accused/petitioner is not necessary and he may be enlarged on bail however, subject to strict conditions.

5. Therefore, the accused/petitioner, namely **Sumanta Biswas**, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), 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, Alipore, South 24-Parganas subject to condition that the said petitioner 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 and on further condition that the petitioner, while on bail, shall not enter the jurisdiction of Netaji Nagar Police Station and shall report to the Officer-in-charge, Jibantala Police Station once in a week until further orders.
6. In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.
7. The application for bail, thus, stands allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)