

22.09.2023
Sl. No.47
akd
[ALLOWED]

C. R. M. (DB) 3698 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 15.09.2023 in connection with Bally Police Station Case No.56 of 2023 dated 24.05.2023 under Sections 363/366A/465/468/120B of the Indian Penal Code. (G.R. Case No.2438 of 2023)

And

In Re: ***Rajiv @ Rajib Gupta & Anr.***

... .. Petitioners

Mr. Milon Mukherjee .. Sr. Advocate
Mr. Subhasis Panchal
Ms. Manisha Jaiswal

... .. for the petitioners

Ms. Faria Hossain
Ms. Baisali Basu
Ms. Mamata Jana

... .. for the State

1. Petitioners are a barren couple. In their eagerness to have a foster child, they had taken a child who was born due to sexual assault on the complainant. Complainant had voluntarily handed over the child to the petitioners. Child has been recovered and is in the home. Accordingly, they pray for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits petitioners had illegally procured the child for valuable consideration.
3. We have considered the materials on record. Statements of witnesses including the complainant show she had been subjected to sexual assault. A child was born. It is the prosecution case in collusion with co-accused, petitioners procured the child for valuable consideration. On the other hand, it is contended on behalf of the petitioners being a barren couple they voluntarily took the child in their foster care as the child was unwanted. The rival versions may

be thrashed out during trial. Child has already been recovered. There is no chance of abscondence of the petitioners. Under such circumstances, we are of the opinion further detention of the petitioners is not necessary.

4. Therefore, the petitioners, namely **(1) Rajiv @ Rajib Gupta & (2) Satabdi Gupta**, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only) each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Howrah subject to condition that the said petitioners 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.
5. In the event they fail to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel their bail automatically without reference to this court.
6. The application for bail, thus, stands allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)