

09.10.2023
tkm/ct 28
sl no. 20

C.R.M. (DB) 3714 of 2023

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Bhatpara P.S case no. 52 of 2022 dated 22.1.2022 under section 363/365 IPC and adding section 376D of the IPC and section 6 of the POCSO Act
and

Allowed

In Re : Prakash Chowdhury

... petitioner

Mr. N S Ghosh
Ms. S Chatterje
Mr. Sourav Mandal
Ms. Labani Sikdar

..... for the petitioner

Mr. Joydeep Roy
Ms. Sujata Das

..... for the State

1. Petitioner is in custody for more than a year. He submits that the victim had voluntarily accompanied him to a hotel. Allegation of forcible rape is out and out false. He prays for bail.
2. Learned lawyer for the State opposes the bail prayer. He submits petitioner stands on a different footing from the co-accused who are on bail.
3. We have considered the materials on record including the statement of the minor. It appears the minor voluntarily accompanied the petitioner to a hotel. Thereafter she was raped and taken back to her residence. Whether such conduct would militate against the allegation of forcible rape requires to be assessed during trial. Alleged rape upon minor committed is said to be not only by the petitioner but co-accused Md. Firoz. The said co-accused is on bail.

4. Under such circumstances we are of the opinion further detention of the petitioner is not necessary and he may be granted bail.

5. Accordingly, the petitioner 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 Barrackpore, North 24 Parganas on condition that the petitioner shall appear before the trial court on every date of hearing and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

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 being CRM (DB) 3714 of 2023 is disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)