

17.10.2023
Sl. No.16
akd
[ALLOWED]

C. R. M. (DB) 3831 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 27.09.2023 in connection with Chandipur Police Station Case No.42 of 2023 dated 20.02.2023 under Sections 363/365/366/376(2)(n)/306/34 of the Indian Penal Code read with Sections 9/10 of the Prohibition of Child Marriage Act and Section 6 of the POCSO Act.

And

In Re: ***Bistu Ghorai @ Bishnupada Ghorai***

... .. Petitioner

Mr. Amal Krishna Samanta

... .. for the petitioner

Mr. Pinak Kumar Mitra

Mr. Pritesh Kumar

... .. for the de-facto complainant

Mr. Joydeep Roy .. Jr. Govt. Advocate

Ms. Sujata Das

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about 240 days. It is further submitted there was a love affair between himself and the victim. They were residing together as husband and wife. Parents of the victim intervened and forcibly took her away. Subsequently, she committed suicide. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits victim is a minor and had been forcibly detained by the petitioner.
3. Learned Advocate for the de-facto complainant also opposes the prayer for bail and submits victim was tortured. Subsequently, she returned to her parental home and committed suicide.
4. We have considered the materials on record. There was free mixing between two young persons. Victim was residing with the petitioner.

Subsequently, she came back to her parental home and committed suicide. Rival versions emerge with regard to the cause of suicide. While petitioner contends unnecessary interference by the parents had prompted the minor to end her life, prosecution alleges torture by the petitioner had driven her to the path of self-extermination. It may be pertinent to note victim did not leave behind any suicide note. The rival versions may be thrashed out in course of trial. There is no chance of abscondence of the petitioner.

5. 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.
6. Therefore, the accused/petitioner, namely **Bistu Ghorai @ Bishnupada Ghorai**, 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, Tamluk, Purba Medinipur 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.
7. 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.
8. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

