

17.10.2023
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allowed

CRM(DB) No. 4064 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Nakashipara Police Station Case No. 759 of 2023 dated 09.09.2023 under Sections 376/417/323/34 of the Indian Penal Code.

And

In Re : Prasanta Sardar petitioner

Mr. Prabir Majumder

Mr. Snehansu Majumder

....for the petitioner

Mr. S. S. Imam

Mr. S. Kundu

.... for the State

1. Heard the learned Counsels for the parties.

2. We have considered the materials on record. Victim lady was major at the time of cohabitation and was aware of the consequences thereof. Allegation of rape is to be assessed in the light of the aforesaid circumstances during trial. Petitioner is in custody for 48 days. There is no chance of abscondence. Hence, we are inclined to grant bail to the petitioner.

3. 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 Chief Judicial Magistrate, Nadia at Krishnagar, subject to conditions that 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.

4. 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.

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

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)