

01.12.2023.
31.
Ct.No.28
as
(Rejected)

C.R.M. (DB) 4188 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Khanakul P. S. Case No.332 of 2021 dated 21.08.2021 under Sections 363/365/328/376(2)(n)/120B/504/506/323 of the Indian Penal Code and Section 4/6(1) of the POCSO Act and charge sheet submitted under Sections 363/365/328/376(2)(n)/120B/504/506/323 of the Indian Penal Code and Section 6(i) of the POCSO Act and under Sections 9/10 of the Prohibition of Child Marriage Act.

In the matter of : **Sekendar Molla.**

... Petitioner.

Mr. S. Das Mahapatra,
Mr. S. Adak.

...for the Petitioner.

Mr. Joydeep Roy, Id. Jr. Govt. Adv.,
Mr. Amanul Islam.

...for the State.

1. Petitioner contends he had married the minor girl as per Islamic rites and contentions. He relies on a Talaknama purportedly sent by the victim in the course of trial. Examination of the victim is complete. Accordingly, he prays for bail.

2. Learned Advocate for the State opposes the bail prayer. He submits victim claimed she was minor and had been forcibly married. She was subjected to penetrative sexual assault. He contends Talaknama had not been produced before the Trial Court.

3. In reply it is contended Talaknama had been sent after the examination of the victim is over.

4. We have considered the materials on record. Petitioner claims he had married the victim as per Islamic Law. But Nikhanama has not been produced before the Trial Court. Victim claimed she was forced into a sham marriage. Failure to produce Nikhanama probabalises her version. A so called Talaknama said to be executed by the victim is annexed to the petition which was not produced before the Trial Court.

5. Under such circumstances, we do not consider it prudent to rely on the said document. There are prima facie materials supporting the allegation of penetrative sexual assault on a minor, Hence, we are not inclined to grant bail to the petitioner at this stage.

6. Accordingly, the prayer for bail of the petitioner is rejected.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)