

12.12.2023

Item No.11

Ct. No. 5

CHC
(Allowed)

C.R.M.(DB) 4596 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Ghatal** Police Station Case No.**440** of **2021** dated **28.11.2021** under Sections **363/365/34/376(2)(n)** of the Indian Penal Code, 1860, Section **6** of the Protection of Children from Sexual Offences Act and Section **9** of the Prohibition of Child Marriage Act.

And

In the matter of: Dusmanta Ghanti @ Dustu

..... petitioner

Mr. Kallol Mondal,
Mr. Krishan Ray,
Mr. Souvik Das,
Mr. Anamitra Banerjee
....for the petitioner

Mr. Arijit Ganguly,
Mr. Apurba Kr. Datta
....for the State

Petitioner prays for bail.

Learned advocate appearing for the petitioner submits that, the petitioner and the victim are married. A child was born out of such marriage. They are presently living as husband and wife. Both the petitioner and the victim are now adults.

Learned advocate appearing for the petitioner submits that, the petitioner is in custody for 34 days. He contends that,

in the interest of the child and interest of the family, the petitioner should be enlarged on bail.

Learned advocate appearing for the State draws the attention of the Court to the materials in the Case Diary including the statement of the victim recorded under Section 164 of the Criminal Procedure Code.

The victim is present in Court as identified by the learned advocate for the petitioner.

The victim in her statement recorded under Section 164 of the Criminal Procedure Code stated that, she went with the petitioner after marriage and that, they lived together as husband and wife at Secunderabad. A child was born out of the wedlock.

Prima facie, it appears that, both the petitioner and the victim are now adults. There is a child born out of their wedlock.

The petitioner is in custody for 34 days.

Continuing the detention of the petitioner is unlikely to serve any useful purpose. Moreover, the need of family presence for a child as also the age of the petitioner, and taking into consideration the statement of the victim recorded under Section 164 of the Criminal Procedure Code, we deem it appropriate to enlarge the petitioner on bail.

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 Additional Chief Judicial Magistrate, Ghatal, subject to the condition that petitioner will report before the Investigating Officer once in a month till the conclusion of investigation and on further condition that the 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.

In the event the petitioner fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel the bail of the petitioner without further reference to this Court.

The application for bail is, accordingly, allowed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)