

30.01.2023
tkm/ct 28
sl no. 31

C.R.M. (DB) 4611 of 2022

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Jangipara P.S case no.185 dated 10.8.2021 under sections 376(3)/506 of the IPC read with section 6(1) of the POCSO Act

and

Allowed

In Re : Surojit Kunkri

..... petitioner

Mr. Navanil De
Mr. R Chakraborty
Mr. S Ghosh
Mr. S Dey
Ms. M Mukherjee

..... for the petitioner

Mr. Sudip Ghosh
Mr. Bitasok Banerjee

..... for the State

Petitioner is in custody for 527 days. He made a prayer for DNA examination of the child of the victim. Immediately thereafter, the child was aborted to avoid the examination. After the deposition of the victim in Court, petitioner renews his bail prayer.

Learned lawyer for the State submits victim was a minor and was forcibly raped. Trial is in progress. Abortion was due to the precarious health condition of the victim.

We have considered the materials on record. We have also examined the deposition of the victim. Though the victim claimed that she had been forcibly raped, she kept quiet for 1½ months. We are conscious she is a minor and her consent, if any, is not material. However, petitioner has suffered detention for about two years. Vulnerable witness has already been examined.

In view of the aforesaid circumstances particularly in view of the fact allegation of forcible rape requires to be assessed in the

backdrop of delay in reporting the matter, we are inclined to grant bail to the petitioner, however subject to conditions.

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 cum Additional Sessions Judge, 1st Court, Serampore 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 and on further condition that the petitioner while on bail shall not enter the jurisdiction of Jangipara P.S until further orders and shall provide address where he shall presently reside to the investigating officer as well as to the court below and shall report to the officer in charge of the P.S concerned within whose jurisdiction he shall presently reside once in a week until further orders.

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.

The application being CRM (DB) 4611 of 2022 is disposed of.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)