

21.12.2023
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allowed

CRM(DB) No. 4735 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Saktipur Police Station Case No. 243 of 2022 dated 26.12.2022 under Sections 498A/376 of the Indian Penal Code.

And

In Re : Ful Babu Sk. @ Ful Babu Sekh Petitioner

Mr. Arnab Chatterjee
Ms. Poulami Bose

....for the petitioner

Mr. D. Chatterjee
Ms. Moyukhi Mitra

.... for the State

1. Learned Counsel for the petitioner submits there was an earlier criminal case registered against the petitioner who is the maternal uncle of the victim and other in-laws. He was enlarged on bail. Subsequently the present case has been registered alleging rape. Accordingly, he prays for bail.

2. Learned Counsel for the State opposes the bail prayer and submits after the registration of the first case victim and others had been called for mediation. There the victim had been detained and raped.

3. We have considered the materials on record. Petitioner had been released on bail in the earlier case. Though it is alleged that the victim was detained for more than seven days no contemporaneous report was made to the police. Allegations of wrongful confinement and rape require to be assessed in the light of the aforesaid circumstances during trial. Keeping in mind the aforesaid facts we are of the opinion though petitioner may be

released on bail in order to instill confidence in the mind of the victim his movement requires to be restricted.

4. 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, Berhampore, Murshidabad, on further condition that the petitioner, while on bail, shall not enter the jurisdiction of Saktipur Police Station and shall provide the address where he shall presently reside to the investigating officer and the court below and shall meet the Officer-in-Charge of the concerned police station once in a week until further orders. 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.

5. 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.

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

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)