

15.12.2023

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Allowed

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri

C.R.M. (DB) No. 684 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Dhupguri Police Station Case No. 400 of 2021 dated 27.09.2021 under Sections 363/365/376(3) of the Indian Penal Code read with Section 6 of the POCSO Act and Section 3(1)(xii) of the SC and ST(POA) Act.

And

In Re : Partha Mukherjee petitioner

Mr. Jaydeep Kanta Bhowmik

Mr. Sayantan Bhowmik

.....for the petitioner

Mr. Tapan Bhattacharjee

Mr. Chattu Roy

.....for the State

1. Learned Counsel for the petitioner submits he is in custody for over 800 days. It is also submitted parties had married each other and cohabited. Allegation of forcible rape is out and out false. He prays for bail.

2. Learned Counsel appearing for the State opposes the prayer for bail and submits no formal marriage was entered into by and between the parties.

3. We have considered the materials on record including the statement of the victim. From her statement it appears parties had entered into a matrimony and cohabited together.

Allegation of forcible rape requires to be assessed in the backdrop of the aforesaid attending circumstances. Petitioner is in custody for over 800 days and there is no chance of trial concluding in the near future. Under such circumstances, we are inclined to grant bail to the petitioner.

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 Judge, Special Court under POCSO Act, Jalpaiguri, subject to 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.

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.

(Apurba Sinha Ray, J.)

(Joymalya Bagchi, J.)