

07.02.2024
30
sdas
allowed

CRM(DB) No. 44 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Pandua Police Station Case No. 495 of 2023 dated 11.09.2023 under Sections 448/323/325/376DA/427/506/34 of the Indian Penal Code and under Section 6(1) of the POCSO Act.

And

In Re : Golam Rahaman & Anr. petitioners

Mr. Suman Chakraborty

....for the petitioners

Mr. Sandip Chakraborty

.... for the State

1. Learned Counsel for the petitioners submits they are in custody for 115 days. It is also submitted there was a property dispute between the parties. Allegation of rape is out and out false. Investigation is complete. Accordingly, they pray for bail.

2. Learned Counsel for the State opposes the bail prayer.

3. In spite of notice nobody appears for the victim.

4. Investigating officer is present in Court.

5. We have considered the materials on record including the statement of the victim under Section 164 of the Code of Criminal Procedure, statement of her mother and the medical report. Victim claimed there was a domestic quarrel amongst the family members. She was assaulted on the head and became unconscious. When she gained her consciousness she found herself in a jungle and her clothes had been removed. Medical report shows victim was suffering from severe trauma and was

unable to narrate facts in a cogent manner. She was referred to psychiatry department. In view of the aforesaid circumstances it is unclear whether the victim was raped or not. It is undeniable there is prior enmity between the parties. Possibility of false implication through tutoring cannot be ruled out. Hence, we are inclined to grant bail to the petitioners.

6. Accordingly, we direct that the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- each with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Sessions Judge, 2nd Court, Hooghly, subject to condition that petitioners shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

7. In the event petitioners fail to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel their bail in accordance with law without further reference to this Court.

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

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)