

29.01.2024
Item No.31
CHC
allowed

CRM(DB) No. 61 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Baruipur Police Station Case No. 753 of 2023 dated 16.06.2023 under Sections 363, 365, 376(2)(n), 376(3) of the Indian Penal Code and Section 6 of the POCSO Act.

And
In Re : Akash Bera petitioner

Mr. Deepak Prahladka,
Mr. Sarfaraz Hossain,
Ms. Reshmi Khatun
.....for the petitioner

Mrs. Zareen N. Khan,
Mr. R. Jana
.... for the State

Mr. Pintu Karar,
Mr. Alam Koley,
Mr. Saikat Koley
...for the de facto complainant

1. Petitioner is in custody for more than seven years. He contends that there was free mixing between the petitioner and the victim. He prays for bail.

2. Learned lawyer for the State submits that date has been fixed for framing of charge.

3. We have considered the materials on record including the statement of the victim. Statement shows that there was a romantic relationship between the parties. Allegation of rape requires to be assessed in light of the aforesaid circumstances during trial. Presently, the Court is lying vacant and there is no possibility of trial commencing in near future.

4. Under such circumstances and in view of nature of allegation, we are inclined to grant bail to the petitioner.

5. Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- with two registered sureties of like amount each, to the satisfaction of the learned Additional Chief Judicial Magistrate, Baruipur, South 24-Parganas, subject to condition that petitioner 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.

6. In the event petitioner 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.

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

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)