

19.01.2024.
33.
Ct.No.28.
as
(Allowed)

C.R.M. (DB) 164 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Jiaganj P.S. Case No.40 of 2023 dated 16.02.2023 under Sections 376/363/365/366/34 of the Indian Penal Code read with Section 6 of the POCSO Act.

In the matter of : **Biplab Mondal.**

.... Petitioner.

Mr. Ranadeb Sengupta,
Mr. Sachit Talukdar.

...for the Petitioner.

Ms. Faria Hosain,
Mr. Arindam Sen.

...for the State.

1. Petitioner submits victim made contradictory statement before Magistrate. Allegation of rape is an afterthought. Accordingly, he prays for bail.
2. Inspite of notice, nobody appears for the victim.
3. Learned Advocate for State produces Case Diary.
4. We have considered the materials on record. In her initial statement before Magistrate victim did not implicate anyone. In her subsequent statement she stated there was a romantic relationship between the parties and a meeting was held where it was decided that they would marry. Thereafter, she had been kidnapped and petitioner had cohabited with her. Even if the subsequent statement is taken on record, it shows there was a romantic relationship between two young persons. Allegation of rape requires to be assessed in that perspective. Petitioner is in custody for 283 days. There is no chance of abscondence.
5. Hence, we are inclined to grant bail to the petitioner.

5. Accordingly, the petitioner viz., **Biplab Mondal** 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 the POCSO Act, Lalbagh, Murshidabad subject to condition that he 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 fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

7. This application for bail is, thus, disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)