

24.01.2024.
30.
Ct.No.28.
as
(Allowed)

C.R.M. (DB) 186 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Beldanga P.S. Case No.822 of 2023 dated 04.11.2023 under Sections 417/376 of the Indian Penal Code.

In the matter of : **Abdul Halim.**

.... Petitioner.

Mrs. Shabana Hasin,
Mr. Aritra Kr. Thokdar.

...for the Petitioner.

Mr. S. S. Imam,
Mr. Anindya Sundar Chatterjee.

...for the State.

Mre. Samiul Akhtar Munnshi,
Mr. Asif Iqbal.

...for the victim.

1. Petitioner contends victim is a married lady. She had voluntarily cohabited. He is in custody for 80 days. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the bail prayer.
3. Learned Advocate for the victim also opposes the bail prayer.
4. We have considered the materials on record including the statement of the victim. She claimed that she had been forced to undergo sexual intercourse with the petitioner. However, no contemporaneous complaint was lodged by the victim. Credibility of the allegation relating to forcible rape requires to be assessed in the light of attending circumstances during trial. There is no chance of abscondence and investigation is complete.
5. Hence, we are inclined to grant bail to the petitioner.

6. Accordingly, the petitioner viz., **Abdul Halim** 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 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.

7. 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.

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

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)