

30.01.2024

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Allowed

C.R.M. (DB) No. 246 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Santipur Police Station Case No. 1391 of 2023 dated 06.12.2023 under Sections 448/376/417/315/325 of the Indian Penal Code.

And

In Re : Tapas Poddar @ Babai petitioner

Ms. Minoti Gomes

Ms. Dona Sanyal

.....for the petitioner

Mr. S. S. Imam

Mr. Nirupam Dhali

.....for the State

Mr. Khalid Hasan

..... for de facto complainant

1. Learned Counsel for the petitioner submits there was a romantic relationship between two consenting parties. Victim had voluntarily aborted an unborn child. Accordingly, he prays for bail.

2. Learned Counsel for the State opposes the bail prayer and submits petitioner had assaulted the victim which resulted in miscarriage.

3. This is also supported by the learned Counsel for the de facto complainant.

4. We have considered the materials on record. Victim is a major lady. There was free mixing between two parties. Allegation of rape requires to be assessed in light of the aforesaid circumstances.

5. We have also considered the allegations of miscarriage by assault. In the F.I.R. it is stated on 04.11.2023 petitioner had come to know that the victim had conceived. He had assaulted her and had given her medicine to abort. Subsequently on 23.11.2023 she felt unwell and was again assaulted. Thereafter she was admitted in the hospital and abortion was done. Whether abortion was a product of assault or voluntary consumption of medicine by the victim requires to be assessed during trial. Keeping in mind the aforesaid facts and as there is no chance of abscondence we are inclined to grant bail to the petitioner.

6. 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 Additional Chief Judicial Magistrate, Ranaghat, Nadia, 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.

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. The application for bail is, accordingly, allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

