

21.02.2024
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allowed

CRM (DB) No. 298 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Bauria Police Station Case No. 143 of 2022 dated 05.08.2022 under Sections 363/365 of the Indian Penal Code and charge-sheet submitted under Sections 363/365/376(2)(n) and under Section 6 of the POCSO Act.

And

In Re : Ashik Jamadar @ Amin Jamadar petitioner

Mr. Sabir Ahmed
Mr. Suraman Sarkar
Ms. Suman Biswas

....for the petitioner

Ms. Sonali Das

.... for the State

1. Report filed on behalf of the State be kept on record.
2. Nobody appears for the victim.
3. Learned Counsel for the petitioner submits there was intimate relationship between the parties. Petitioner has been falsely implicated in the case. Co-accused Tapas @ Mofiuddin Khan has been enlarged on bail. He prays for bail.
4. Learned Counsel for the State opposes the prayer for bail.
5. We have considered the materials on record. Allegation of rape is against co-accused Tapas @ Mofiuddin Khan. Petitioner and victim had a romantic relationship and it is contended they were living as husband and wife. Co-accused Tapas @ Mofiuddin Khan is on bail. Under such circumstances

and in view of extent of complicity of the petitioner in the crime we are not 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 Judge, Special Court under POCSO Act, Uluberia, Howrah, subject to conditions that petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

7. In the event the petitioner fails to appear before the trial court without 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.)