

29.02.2024
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allowed

CRM (DB) No. 428 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Hariharpara Police Station Case No. 77 of 2023 dated 25.02.2023 under Section 376 of the Indian Penal Code.

And

In Re : Rubel Sk. @ Rakibul Sk. petitioner

Mr. Kingsuk Mondal

....for the petitioner

Mr. Shekhar Barman

.... for the State

1. Learned Counsel for the petitioner submits there is delay in lodging FIR. Allegations are out and out false. Accordingly, he prays for bail.

2. Learned Counsel for the State opposes the prayer for bail.

3. Nobody appears for the victim.

4. We have considered the materials on record. There is delay in lodging FIR for more than two years. Credibility of allegation of forcible rape requires to be assessed in the light of the attending circumstances during trial. Offences, if proved, would not attract mandatory life imprisonment. There is no chance of abscondence. Accordingly, 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

sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Murshidabad at Berhampore, 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.

6. 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.

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

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)