

05.03.2024  
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allowed

CRM(DB) No. 503 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Pathar Pratima Police Station Case No. 359 of 2023 dated 24.09.2023 under Section 4 of the POCSO Act and charge-sheet submitted under Section 376(1) of the Indian Penal Code and Section 4 (1) of the POCSO Act.

And  
In Re : Rajesh Maity ..... petitioner

Ms. Subhasree Patel  
Mr. Saikat Mondal  
.....for the petitioner

Mr. Angshuman Chakraborty  
.... for the State

1. Learned Counsel for the petitioner submits there was free mixing between two young persons. There is delay in lodging FIR. He prays for bail.

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

3. In spite of service of notice nobody appears for the victim.

4. We have considered the materials on record. In her statement before police officer victim admitted there was free mixing between the parties. However, before Magistrate she stated she had been called by the petitioner and raped. She did not immediately report the matter to her family members or police. Allegation that the petitioner threatened her to upload objectionable pictures is not supported by recovery of electronic

evidence during investigation. Under such circumstances and in view of period of detention suffered by the petitioner i.e. 164 days we are inclined to grant bail to him.

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 Additional District & Sessions Judge, 1<sup>st</sup> Court and Special Court under POCSO Act, Kakdwip, South 24 Parganas, 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.

**(Ajay Kumar Gupta, J.)**

**(Joymalya Bagchi, J.)**