

29.02.2024
Sl. No.88
akd
[ALLOWED]

C. R. M. (DB) 591 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 19.02.2024 in connection with Haripal Police Station Case No.215 of 2022 dated 30.08.2022 under Sections 363/365/376(3)/376(2)(n) of the Indian Penal Code, Section 6(1) of the POCSO Act and Sections 9/10 of the Prohibition of Child Marriage Act and subsequently charge sheet submitted under Sections 366/376(3)/376(2)(n) of the Indian Penal Code, Section 6(1) of the POCSO Act and Sections 9/10 of the Prohibition of Child Marriage Act. (G.R. Case No.1400 of 2022)

And

In Re: **Arun Malik**

... .. Petitioner

Mr. Tapas Kumar Ghosh
Mr. Tanmay Chowdhury

... .. for the petitioner

Mr. Joydeep Roy .. Jr. Govt. Advocate
Ms. Ratna Ghosh

... .. for the State

1. It is submitted on behalf of the petitioner that the victim had a relationship with co-accused viz. Suman Bauri. They had eloped. Petitioner was subsequently implicated in the case. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits petitioner had repeatedly raped the victim and she had become pregnant. Thereafter she was compelled to marry one Suman Bauri.
3. In spite of service, nobody appears on behalf of the victim.
4. We have considered the materials on record including the evidence of the victim. In her evidence the victim stated she was repeatedly raped by the petitioner and had become pregnant. However, in her previous statement before Magistrate, she claimed she had a prior relationship with Suman Bauri. It is strange she did not disclose

sexual torture by the petitioner to her lover earlier. Evidence of the vulnerable witness is complete. Her credibility requires to be assessed in the light of the attending circumstances and other evidence on record. There is no chance of abscondence. Under such circumstances, we are of the opinion further detention of the accused/petitioner is not necessary.

5. Therefore, the accused/petitioner, namely **Arun Malik**, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the POCSO Act-cum-Additional Sessions Judge, Chandernagore, Hooghly subject to condition that the said 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.
6. In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.
7. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)