

01.03.2024.
107.
Ct.No.28.
as
(Allowed)

C.R.M. (DB) 663 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Krishnagar Women P.S. Case No.100 of 2023 dated 16.11.2023 under Sections 448/376/323/308/34 of the Indian Penal Code.

In the matter of : **Uttam Biswas.**

.... Petitioner.

Mr. Prabir Majumder,
Mr. S. Majumder.

...for the Petitioner.

Ms. Mamata Jana.

...for the State.

Mr. Sourav Mukherjee.

...for the de-facto complainant.

1. Petitioner submits victim was a widow and had developed a relationship with him. Subsequently she married one Dinu Pal and falsely implicated the petitioner in the case. He is in custody for 86 days. Accordingly, he prays for bail.

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

3. Learned Advocate for the de-facto complainant does not oppose the bail prayer.

4. We have considered the materials on record including the statement of the victim recorded under Section 164 of the Code of Criminal Procedure. She stated petitioner used to disturb her for a long time. On the fateful day he had come to her house and committed rape. Victim used to live with her husband and other relations. Credibility of the allegation of forcible rape while the victim was residing with other inmates

in her house requires to be assessed during trial. There is no chance of abscondence.

5. Under such circumstances, we are inclined to grant bail to the petitioner.

6. Accordingly, the petitioner viz., **Uttam Biswas** 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, Nadia at Krishnagar subject to condition that he 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 the 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. This application for bail is, thus, disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)