

19.03.2024
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allowed

CRM (DB) No. 674 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Nowda Police Station Case No. 100 of 2023 dated 22.03.2023 under Sections 363/365 of the Indian Penal Code and charge-sheet filed under Sections 363/365/376(3) of the Indian Penal Code read with Section 6 of the POCSO Act.

And

In Re : Sukuruddin Mondal petitioner

Mr. Ali Ahsan Alamgir
Ms. Rabia Khatoon
Ms. Soma Mal

....for the petitioner

Mr. Rana Mukherjee
Mr. Arif Ekbal Molla

.... for the State

1. Learned Counsel for the petitioner submits he is in custody for 330 days. It is also submitted there was a romantic relationship between the petitioner and the victim. She had voluntarily eloped with the petitioner. He prays for bail.

2. Learned Counsel for the State opposes the bail prayer and submits victim is a minor. She alleged through deception she had been taken away and raped.

3. We have considered the materials on record. Statement of victim before the learned Magistrate is at variance to her earlier statements before police as well as the doctor. Possibility of victim voluntarily leaving her parent's house with the petitioner requires to be assessed in the backdrop of the facts and circumstances of the case during trial. There is no chance of

abscondence. Hence, we are inclined to grant bail to the petitioner.

4. 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, 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.

5. 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.

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

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)