

08.03.2024
Sl. No.36
akd
[ALLOWED]

C. R. M. (DB) 755 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 22.12.2023 in connection with Domkal Police Station Case No.757 of 2023 dated 06.11.2023 under Sections 376(2)(I)/323/506 of the Indian Penal Code and subsequently charge sheet submitted under Sections 376(2)(I)/341/323/506 of the Indian Penal Code. (G.R. Case No.5258 of 2023)

And

In Re: ***Amanulla Mallik @ Amit @ Amanulla Mallick***

... .. Petitioner

Ms. Minoti Gomes

... .. for the petitioner

Mr. Priyankar Ganguly

... .. for the de-facto complainant

Mr. Suman De

... .. for the State

1. It is submitted on behalf of the petitioner that there is a civil dispute between the parties. Out of prior enmity, petitioner has been falsely implicated. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail.
3. Learned Advocate for the de-facto complainant/victim also opposes the prayer for bail and submits victim is a mentally challenged girl.
4. We have considered the materials on record. Victim has made statement before Magistrate. In the statement she alleged she was forcibly raped. However, petitioner contends there are prior civil disputes by and between the parties and he has been falsely implicated. Medical report does not disclose injuries corroborating forcible rape. In view of prior enmity, possibility of false implication cannot be ruled out. Under such circumstances, we are of the opinion further detention of the accused/petitioner is not necessary and he may be enlarged on bail however, subject to strict conditions.

5. Therefore, the accused/petitioner, namely **Amanulla Mallik @ Amit @ Amanulla Mallick**, 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 Sessions Judge, Berhampore, Murshidabad 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 and on further condition that the petitioner, while on bail, shall not enter the jurisdiction of Domkal Police Station and shall provide the address where he shall presently reside to the Investigating Agency as well as the court below and shall report to the Officer-in-charge of the police station concerned within whose jurisdiction he shall presently reside once in a week until further orders.
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.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)