

20.03.2024
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Allowed

C.R.M. (DB) No. 845 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Khardah Police Station Case No. 739 of 2023 dated 09.11.2023 under Sections 376/313/506/120B of the Indian Penal Code along with Sections 4/8 of the POCSO Act.

And
In Re : Md. Allauddin petitioner

Mr. Anit Dey
.....for the petitioner

Ms. Amita Gaur
Mr. Arup Sarkar
.... for the State

Mr. Apalak Basu
Ms. Sanghamitra Mridha
.... for the de facto complainant

1. Learned Counsel for the petitioner submits he is the father of the principal accused. He did not play any role in the crime. Accordingly, he prays for bail.

2. Learned Counsel for the State opposes the bail prayer and submits petitioner had aided and abetted his son to rape the victim.

3. Learned Counsel for the de facto complainant also opposes the bail prayer.

4. We have considered the materials on record. We have examined the statement of the victim. She stated in 2021 she had gone to the house of the principal accused i.e. Md. Akmal and was raped. Petitioner who is the father of Md. Akmal was in the house. He left the room after closing the door from

outside. However, after the incident no complaint with regard to forcible rape was lodged. On the other hand, victim construed to interact with Md. Akmal. On a subsequent date she was forcibly raped and the incident was videographed. Petitioner was not involved in the subsequent incident. Allegation that the petitioner assisted his son to commit rape in April, 2021 has to be assessed in the light of the fact that the victim remained mum for more than two years and other attending circumstances during trial. There is no chance of abscondence. Accordingly, we are inclined to grant bail to the petitioner.

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 Chief Judicial Magistrate, Barrackpore, North 24 Parganas, on further condition that petitioner while on bail shall not enter North 24 Parganas till examine of the victim and shall provide address where he shall presently reside to the investigating officer and learned court below and he shall report to the Officer-in-Charge of the concerned police station once in a week until further orders. 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 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.

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

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)