

03.04.2024
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allowed

CRM (DB) No. 890 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Bhatar Police Station Case No. 27 of 2024 dated 14.01.2014 under Section 8 of the POCSO Act.

In Re : Sk. Mofij @ Sk. Mofijul petitioner

Mr. Uday Sankar Chatterjee
Ms. Snigdha Saha
Ms. Trisha Rakshit
Ms. Rajashree Tah
Ms. Aisharya Datta

....for the petitioner

Mr. Avishek Sinha

.... for the State

Mr. Debapriya Samanta

..... for de facto complainant

1. Learned Counsel for the petitioner submits he is in custody for 79 days. It is also submitted he has been falsely implicated. There is no possibility of trial commencing in the near future as prayer for further investigation has been made by the de facto complainant. He prays for bail.

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

3. Learned Counsel for the de facto complainant submits prayer for further investigation has also been made on behalf of the State.

4. We have considered the materials on record. Petitioner is in custody for 79 days. Whether the allegation of

sexual assault is credible requires to be assessed during trial. However, prosecution as well as the de facto complainant have prayed for further investigation. There is no possibility of trial commencing in the near future. There is also no chance of abscondence. Under such circumstances, 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 Sessions Judge, 2nd Court-cum-learned Judge, Special Court under POCSO Act, Purba Bardhaman, 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.

6. 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.

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

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)