

05.04.2024
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allowed

CRM (DB) No. 1004 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Lalgola Police Station Case No. 561 of 2023 dated 02.12.2023 under Section 376 of the Indian Penal Code and under Section 4 of the POCSO Act.

And
In Re : Momin Hasan @ Momin petitioner

Mr. Tapodip Gupta
.....for the petitioner

Mr. Arijit Ganguly
Mr. Mainak Gupta
.... for the State

1. Learned Counsel for the petitioner submits there was a romantic relationship between the parties. He is in custody for 125 days. He prays for bail.

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

3. In spite of service of notice nobody appears for the victim.

4. We have considered statement of the victim. She claims there was a romantic relationship between the parties. Allegation of forcible rape requires to be assessed in the light of the fact that the victim admitted she had voluntarily gone to the residence of the petitioner during trial. There is 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 Judge, Special Court, Lalbagh, Murshidbad, 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.)