

05.04.2024.
21.
Ct.No.28
as
(Rejected)

C.R.M. (DB) 1006 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection Minakhan P.S. Case No.102 of 2019 dated 25.04.2019 under Sections 363/365/34 of the Indian Penal Code and adding Section 376D of the Indian Penal Code and Section 6 of the POCSO Act and charge sheet submitted under Sections 363/365/376D/34 of the Indian Penal Code and Section 6 of the POCSO Act.

In the matter of : **Sk. Niyamtulla @ Sk. Niyamatullah.**
... Petitioner.

Mr. Tapas Kr. Ghosh,
Mr. Tanmay Chowdhury.

...for the Petitioner.

Mr. Bibaswan Bhattacharya,
Md. Ejaz Akhter.

...for the State.

1. Petitioner is in custody for 342 days. He contends grandmother of the victim i.e. de-facto complainant has made a prayer that he is no way involved in the case. Accordingly, he renews his bail prayer.

2. Learned Advocate for the State opposes the bail prayer. He submits petitioner had absconded for four years. Co-accused are absconding which has caused the delay.

3. We have considered the materials on record. Bail prayer of the petitioner was rejected earlier on merits. Fact that the de-facto complainant has filed application before the jurisdictional court stating petitioner is no way involved in a case involving gang rape clearly exposes the adverse influence

of the petitioner on witnesses. Delay in the matter is due to abscondence of co-accused.

4. Under such circumstances, we are not inclined to grant bail to the petitioner.

5. Accordingly, the prayer for bail of the petitioner is rejected.

6. We take note of the fact that other absconding accused have been declared as proclaimed offenders.

7. Under such circumstances, we direct the trial court to proceed with the case against the petitioner and conclude the same at an early date.

8. Parties shall co-operate with the trial court.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)