

24.04.2024
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allowed

CRM (DB) No. 1289 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Jetia Police Station Case No. 135 of 2022 dated 10.08.2022 under Sections 376/406/325/427/506/34 of the Indian Penal Code.

And
In Re : Suraj Mahato petitioner

Mr. Sekhar Barman
Mr. Ashok Das
Mr. Rohit Prasad
....for the petitioner

Mr. Rudradipta Nandy, learned APP
Ms. Nandini Chatterjee
.... for the State

Ms. Manaswita Mukherjee
Mr. Karan Dudhwewala
.... for the victim

1. Learned Counsel for the petitioner submits he is in custody for one year and eight months. It is also submitted there was free mixing between two consenting adults. Allegation that he had received Rs.3 lakhs is out and out false. Victim has already been examined. Accordingly, he prays for bail.

2. Learned Counsel for the State opposes the bail prayer and submits victim had been forcibly raped on a number of occasions. She became pregnant. DNA report shows petitioner is the father of the child.

3. Learned Counsel for the de facto complainant submits petitioner had sought adjournment during examination of the mother of the victim. This has delayed the trial.

4. We have considered the materials on record. We have also examined evidence of the victim, PW 1 and other witnesses. She stated she had been forcibly raped on a number of occasions. However, no contemporaneous complaint was lodged by her. She also alleges petitioner took her objectionable photos and blackmailed her. No objectionable photo has been seized from the mobile phone or other device in control and custody of the petitioner. Allegation of forcible rape requires to be assessed in the light of these attending circumstances during trial. Vulnerable witness has already been examined. Under such circumstances we are of the opinion further detention of the petitioner is not necessary but his movement requires to be restricted in order to instill confidence in the mind of the victim and other witnesses.

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, Fast Track Court No. III, Barrackpore, on further condition that while on bail the petitioner shall not enter district of North 24-Parganas 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 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.)