

29.04.2024.
34.
Ct.No.28.
as
(Allowed)

C.R.M. (DB) 1327 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Dhantala P.S. Case No.428 of 2023 dated 09.06.2023 under Sections 376/323/325/506/427/120B/34 of the Indian Penal Code.

In the matter of : **Samrat Das.**

.... Petitioner.

Ms. Sananda Bhattacharya.

...for the Petitioner.

Mrs. Amita Gaur,
Ms. Rajashree Tah.

...for the State.

Mr. Sayantan Hazra.

...for the de-facto complainant.

1. Petitioner submits allegation of forcible rape is improbable. There is a dichotomy with regard to the genesis of the incident in the statement of the victim before Magistrate vis-a-vis FIR. Accordingly, he prays for bail.

2. Learned Advocate for the State opposes the bail prayer. She contends petitioner is the principal accused.

3. We have considered the materials on record. In FIR, it is alleged there was altercation between victim, petitioner and others. On the fateful night, co-accused held her and the petitioner had committed rape. However, before Magistrate victim submitted while she was going to the toilet petitioner had ravished her. This shows the circumstances leading to rape are not consistent in the two statements. Credibility of her version requires to be assessed in the light of the aforesaid

circumstance during trial. Petitioner is in custody for 148 days and investigation is complete.

4. Under such circumstances, we are inclined to grant bail to the petitioner.

5. Accordingly, the petitioner viz., **Samrat Das** 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, Ranaghat, Nadia subject to condition that he 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 the 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. This application for bail is, thus, disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)