

06.05.2024  
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sdas  
allowed

CRM (DB) No. 1330 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Nakashipara Police Station Case No. 86 of 2024 dated 28.01.2024 under Sections 363/366/34 of the Indian Penal Code and Section 4 of the POCSO Act and Section 9 of the Prohibition of Child Marriage Act and charge-sheet submitted under Sections 363/365/366/376(3) of the Indian Penal Code and Section 4 of the POCSO Act and Section 9 of the Prohibition of Child Marriage Act.

And

In Re : Nityananda Mondal @ Netai Mondal ..... petitioner

Mr. Sandip Chakraborty

Mr. Amanul Islam

Mr. Sourav Mukherjee

Mr. Kaustav Das

....for the petitioner

Ms. Amita Gaour

Md. Hafiz Ali

.... for the State

Mr. Santanu Das

Mr. Aritra Kumar Thokdar

.... for the de facto complainant

1. Learned Counsel for the petitioner submits there was a romantic relationship between him and the victim. He has been falsely implicated. He prays for bail.

2. Learned Counsel for the State produces the Case Diary.

3. Learned Counsel for the de facto complainant submits she was forced to marry the petitioner.

4. We have considered the materials on record. We have also examined the statement of the victim. Credibility of the prosecution case requires to be assessed in the light of the submission that there was free mixing between two young

persons. In view of the aforesaid circumstances we are of the opinion further detention of the petitioner is not necessary but movement of the petitioner requires to be restricted in order to instill confidence in the mind of the victim and other in-laws. Accordingly, 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 under POCSO Act, Krishnangar at Nadia, on further condition that he shall not enter the jurisdiction of Nakashipara Police Station till examination of the victim 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.)**