

09.05.2024.
33.
Ct.No.28.
as
(Allowed)

C.R.M. (DB) 1365 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Serampore P.S. Case No.580 of 2023 dated 08.12.2023 under Sections 498A/376D/376(2)(n) of the Indian Penal Code.

In the matter of : **Ram Kumar & Anr.**

.... Petitioners.

Mr. Samar Chowdhury Bandhu.

...for the Petitioners.

Mr. Binay Kr. Panda,
Mrs. Manasi Roy.

...for the State.

1. It is contended petitioner No.1 had married the victim under Hindu Rites and Customs. Allegation of forcible rape by him is out and out false. There was matrimonial dispute and petitioner withdrew the matrimonial home. After a lapse of eight months FIR was lodged. Accordingly, they pray for bail.
2. Learned Advocate for the State opposes the bail prayer.
3. In spite of notice nobody appears for the victim.
4. We have considered the materials on record including the statement of the victim. She claimed she had come to know petitioner no.1 through a social net working site. He promised her to give employment and took her to Agra. There she was forcibly married with petitioner no.1 and the latter forcibly cohabited with her. Others had also raped her. Subsequently, she escaped and lodged FIR.
5. It is contended on behalf of the defence that marriage took place in a temple. Whether the marriage was *bona fide* or under compulsion requires to be assessed during trial. In the

light of the plea that the couple had married and the victim was a major lady, it cannot be said cohabitation constituted rape. Allegation of sexual intercourse with others is general and omnibus. Victim has not identified the said persons. Neither did she disclose the dates of such occurrence. Delay in lodging the First Information Report must also be taken into consideration. Possibility of false implication through a belated FIR owing to pre-existing matrimonial discord cannot be ruled out.

6. Under such circumstances, we are inclined to grant bail to the petitioners subject to strict conditions.

7. Accordingly, the petitioners viz., **Ram Kumar and Malkhan Singh** shall be released on bail upon furnishing a bond of Rs.10,000/- each with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Serampore, Hooghly subject to condition that they 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 and on further condition that the petitioners while on bail shall remain within the district of Hooghly and shall provide the address where he shall reside to the Investigating Officer as well as the jurisdictional court and meet the Officer-in-charge, Serampore Police Station within whose jurisdiction they shall reside once in a week until further orders.

8. In the event the petitioners fail to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel their bail in accordance with law without further reference to this Court.

9. This application for bail is, thus, disposed of.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)