

27.06.2024
Item no. 37.
Court No.28.
AB
(Allowed)

CRM (DB) 1910 of 2024

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure in connection with Hemtabad Police Station Case No.53 of 2024 Dated 19.3.2024 under Sections 363/506/34 of the Indian Penal Code read with Section 4 of the POCSO Act

And

In the matter of : Dhiraj Mahato Petitioner.

Mr. Nirupam Dhali
Ms. Priya Chakraborty for the Petitioner.

Mr. Joydeep Biswas,
Mr. Sachit Talukdar for the State.

Mr. Santanu Deb Roy for the Victim Girl.

The petitioner says that there was and is a love affair between him and the victim girl. The victim girl is 17 years of age presently. Once she attains majority, they will get married.

Learned Advocate for the victim girl supports the case of the petitioner.

Mr. Biswas, learned Advocate representing the State opposes the prayer for bail. He draws our attention to the order of the learned Trial Court dated May 3, 2024. He says that the learned Trial Court rightly rejected the prayer for bail holding that even if the victim girl may not oppose the prayer, the facts of the case do not warrant that the petitioner may be enlarged on bail.

We have seen the material in the case diary including the medical report. Prima facie, the medical report does not support the prosecution case.

Further we see that there is some relationship between the petitioner and the victim girl. The petitioner is in custody for 86 days. Investigation is complete. Charge sheet has been filed.

Under those facts and circumstances, we see no justification for continuing the custodial detention of the petitioner.

Accordingly, we direct that the petitioner, namely **Dhiraj Mahato** 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 the POCSO Act at Raiganj, Uttar Dinajpur, and on further conditions that he shall not leave the jurisdiction of the concerned police station and shall report to the Officer-in-Charge of the concerned police station once in a fortnight until further orders.

The 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 and/or commit any cognizable offence in any manner whatsoever.

In the event the petitioner fails to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)