

07.8.2024
Ct. No. 6
SL No. 29
SB

C.R.M. (DB) 2441 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Mothabari** P.S. Case No. 147 of 2023 dated 23.5.2023 under Section 376DA of the Indian Penal Code read with Section 6 of POCSO Act.

And

In the matter of: Masum @Masum Sk.

Mr. Tapan Dutta Gupta
Mr. Parvej Anam ... for the petitioner

Ms. Amita Gaur
Mr. Sandip Kundu ... for the State

Mr. Amitabha Kundu ... for the victim

1. Petitioner is in custody for over one year. He submits version of the victim has not been supported by her mother and sister. Accordingly prays for bail.
2. Learned lawyer for the State opposes the bail prayer.
3. Mr. Kundu, learned counsel appearing for the victim.
4. We have considered the materials on record. Victim alleged petitioner and another had raped her. She informed the incident to her sister. However, her sister and mother stated there was dispute over collecting mangoes. Medical report does not show injury in private parts. Credibility of the victim has to be assessed in the light of the aforesaid evidence on record and other attending circumstances during trial. Vulnerable witnesses have already been examined.
5. Under such circumstances, we are inclined to grant bail to the petitioner.

6. Accordingly, 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 special Judge, Additional District, Judge, 2nd Court, Malda subject to the condition that the petitioner shall appear before the trial court on each and every date of hearing until further orders and shall not intimidate witnesses and/or tamper with evidence in any manner whatsoever.
7. In the event petitioner fails to appear before the Trial Court without any justifiable cause, the Trial Court shall be at liberty to cancel his bail without any further reference to this Court.
8. The application for bail is, thus, allowed and disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)