

CRM (DB) 2495 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Raiganj Police Station** Case No. **128 of 2024** dated **06.02.2024** under Sections **363/365/506/34** of the Indian Penal Code read with Section 6 of the POCSO Act.

- A n d -

In the matter of : Mustafizur Rahaman @ Fitu

.... Petitioner.

Mr. Nirupam Dhali,
Mrs. Priya Chakraborty,

... For the Petitioner.

Mr. Abhishek Sinha,
Mr. Sobhan Gani,

... For the State.

Mr. Santanu Deb Roy,

...for the defacto complainant.

Order dictated by Arijit Banerjee, J.:

1. The petitioner says that he has been framed in this matter. There was a love affair between the petitioner and the victim girl. A false complaint has been lodged. Even the order of the learned Trial Court rejecting his prayer for bail records the consent of the victim girl and her parents. He is in custody for 195 days. Investigation is complete. He should be enlarged on bail.

2. Learned Advocate for the defacto complainant does not oppose the prayer for bail.

3. Learned Advocate for the State while opposing the prayer for bail draws our attention to the relevant material in the case diary. He also says that the victim girl being a minor, could not have given valid consent in the eye of law.

4. In her statement recorded under Section 164 of the Code of Criminal Procedure the victim girl has stated that she was

repeatedly ravished 4/5 times forcibly by the petitioner. However, the medical report does not corroborate such allegation to any extent at all.

5. In view of the aforesaid, and since investigation is complete, we are of the view that further custodial detention of the petitioner is not necessary.

6. Accordingly, we direct that the petitioner, namely, **Mustafizur Rahaman @ Fitu**, 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 under the POCSO Act, 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 in any manner whatsoever.

7. 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.

8. The application for bail is, accordingly, allowed.

9. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)