

19.12.2024
Item no.33.
Court No.29.
S. De
(Allowed)

CRM (DB) No. 3223 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure corresponding to Section 483 of the Bharatiya Nagarik Suraksha Sanhita 2023, in connection with **Chanditala Police Station Case No. 64 of 2024** dated **28.01.2024** under **Sections 376(2)(f)/323/506/509 of the Indian Penal Code** read with **Section 6(1)** of the Protection of Children from Sexual Offences Act (POCSO), 2012.

And

In the matter of : XXXX.

.....Petitioner.

Mr. Jayanta Narayan Chatterjee, Sr. Adv.,
Mr. S. Naskar,
Ms. Jayashree Patra,
Ms. Pritha Sinha,for the Petitioner.

Mr. Pravas Bhattacharya,
Ms. Manasi Roy,for the State

Dictated by Apurba Sinha Ray, J.

1. Learned advocate for the petitioner submits that the petitioner is in custody for about 327 days. He says that he has been falsely implicated by the de facto complainant. The victim girl refused medical examination. As the investigation is complete and the victim girl's deposition has been recorded under Section 164 Cr.P.C., he may be granted bail on any condition. He also says that the victim girl is his cousin. They reside in the same house. Due to dispute between the two families, he has been falsely implicated.

2. Learned counsel for the State submits that the petitioner being the cousin brother of the victim committed rape and there are sufficient incriminating materials in the deposition of the victim that the present petitioner forcibly raped her.
3. If the petitioner is enlarged on bail, the prosecution may suffer.
4. We have considered the materials on record. It is found that the victim refused medical examination. The vulnerable witness being the victim has already been examined. There is very little chance of an early conclusion of the trial as there are 17 more witnesses who remain to be examined by the prosecution. Considering all facts, we are inclined to allow the petitioner's prayer for bail on certain condition.
5. Accordingly, we direct that the petitioner, namely, **XXXX** 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), Serampore subject to the conditions that the petitioner shall remain outside the jurisdiction of the Chanditala police station except for the purpose of attending Court proceedings and shall also furnish the address

where he will be residing to the Inspector-in-Charge in whose jurisdiction he will be residing and the learned Trial Court as well and shall also appear before such Inspector-in-charge once in a fortnight until further orders.

6. 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.)