

October 22, 2024

49 ARDR/SD

Allowed

CRM(DB) 3594 of 2024

In Re : An Application under Section 439 of the Code of Criminal Procedure/Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed in connection with **Dasnagar** Police Station Case No. 235/2023 dated 26/12/2023 under Sections 417/376/ 325/506 of the Indian Penal Code.

And

In Re : Sk. Javed @ Jawed

... Petitioner.

Mr. Achin Jana,
Mr. Suman Chakraborty,
Mr. Prosenjit Ghosh,
Mr. Bhaskar Jalu,
Mr. Nazia Hena,

... For the Petitioner.

Mr. Aniket Mitra,

...for the O.P.2.

Mrs. Sukanya Bhattachaya,
Ms. Rita Datta,

... For the State.

This is an application under Section 439 of the Code of Criminal Procedure/Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in respect of Dasnagar Police Station Case No. 235/2023 of 2022 dated 26/12/2023 under Sections 417/376/ 325/506 of the Indian Penal Code.

Vaklatnama filed on behalf of the victim girl/opposite party no.2 is taken on record.

Affidavit of service filed on behalf of the petitioner in respect of the service of notice upon the de facto complainant is also taken on record and be kept in a sealed cover.

Learned counsel appearing on behalf of the petitioner submits that his client is in custody for about ten months. Charge sheet has been submitted, *inter alia*, under Sections 417/376 of the Indian

Penal Code. It is an unfortunate case where the petitioner was in having love affair with two sisters and got married to both of them. The situation turned sour and an FIR was lodged.

Learned counsel for the victim lady/younger sister vehemently opposes the prayer for bail and submits that both the sisters have been duped by the petitioner.

Learned counsel appearing on behalf of the State relies on the case diary and strongly opposes the prayer for bail.

It appears from the statement of a victim before the learned Magistrate that the two sisters decided to get married to the accused upon his offer as they were poor. This is indeed an unfortunate state of affairs if the version given by the victim is to be believed.

However, the petitioner is in custody on such allegations for about ten months. In view of the same, we are inclined to allow the application for bail.

Let the petitioner be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned ACJM, Howrah subject to the conditions that once the trial commences, the petitioner shall appear before the learned trial Court regularly and shall meet the Officer in Charge, Dasnagar Police Station once a week until further orders and the petitioner shall not intimidate witnesses or temper with evidence in any manner whatsoever.

In the event the petitioner fails to comply with the conditions as enshrined hereinbefore, it shall be open to the trial Court to cancel the bail without any further reference to this Court.

The application for bail is, thus, allowed.

Criminal section is directed to provide certified copy of this order, if applied for, to the parties upon completion of requisite formalities.

(Biswaroop Chowdhury, J.)

(Jay Sengupta, J.)