

03.01.2024

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Allowed

C.R.M. (DB) No. 4388 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Mongalkote Police Station Case No. 213 of 2020 dated 04.09.2020 under Sections 363/365 of the Indian Penal Code and Section 376(3) of Indian Penal Code and Section 4 of the POCSO Act.

And

In Re : Toton Pradhan petitioner

Mr. Nilendra Narayan Ray

.....for the petitioner

Mr. Prasun Kumar Dutta, learned APP

Mr. Subrato Roy

.....for the State

1. Learned Counsel for the petitioner submits he is in custody for more than three years. Accordingly, he prays for bail on the ground of inordinate delay.

2. Learned Counsel for the State opposes the prayer for bail.

3. In spite of notice nobody appears for the victim.

4. We have considered the materials on record. Though there is allegation of penetrative sexual assault on a minor it is to be noted that trial has progressed at a very slow pace and petitioner has incarcerated for more than three years. Vulnerable witness i.e. victim has already been examined. Accordingly, we are inclined to grant bail to the petitioner.

5. Accordingly, we direct that 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 Additional Chief Judicial Magistrate, Katwa, subject to condition that petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

6. 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 in accordance with law without further reference to this Court.

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

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)