

22.01.2024
19
as/sdas
rejected

C.R.M.(DB) No. 4502 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Hanskhali Police Station Case No. 264 of 2018 dated 09.08.2018 under Sections 376/325/307/326 of the Indian Penal Code.

And

In Re : Ripon Sikder Petitioner

Mr. Arnab Chatterjee
Ms. Dhanasree Biswas
Ms. Poulami Bose
.... for the petitioner

Mr. Imran Ali
Ms. Sutapa Banerjee
.... for the State

Ms. Trina Mita
..... for the victim

1. Learned Counsel for the petitioner submits victim had attracted her deposition in chief during cross-examination. Accordingly, he prays for bail.

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

3. Victim also opposes the bail prayer and submits victim had been misled to make incorrect statement during cross-examination.

4. We have gone through the evidence of the victim. In her examination-in-chief victim stated she had been raped. Her evidence-in-chief is supported by medical evidence on record. However, during cross-examination she made contradictory statement. In this backdrop it was incumbent on the learned Public Prosecutor to recall the victim to clarify her deposition. This was not

done by the victim. Moreover, during hearing of the bail application victim stated she had been misled to make incorrect statement during cross-examination. In view of the aforesaid we are of the opinion it is incumbent for a just decision of the case that the victim be recalled and examined under Section 311 of the Code of Criminal Procedure.

5. Keeping in mind the fact that the evidence of the victim in chief is corroborated by medical evidence supporting a case of rape we are not inclined to grant bail to the petitioner at this stage

6. The application for bail is, thus, rejected.

7. Trial court shall take necessary steps for examining the victim under Section 311 of the Code of Criminal Procedure.

8. The parties are directed to communicate copy of this order to the trial court for due compliance.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)