

05.02.2024
Sl. No.22
akd
[ALLOWED]

C. R. M. (DB) 4642 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 06.12.2023 in connection with Sandeshkhali Police Station Case No.34 of 2022 dated 14.03.2022 under Sections 363/365/376(2)(n) of the Indian Penal Code, Section 6 of the POCSO Act and Section 9 of the Child Marriage Act.

And

In Re: ***Raju Mondal***

... .. Petitioner

Mr. Kallol Kumar Basu
Md. Jannat-ul-Firdous

... .. for the petitioner

Mr. Soham Banerjee

... .. for the de-facto complainant

Mr. Sudip Ghosh
Mr. Nirupam Dhali

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for more than 600 days. It is further submitted there was free mixing between the petitioner and the victim. Trial has not commenced. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits report disclosing the status of the proceeding.
3. Learned Advocate for the de-facto complainant/victim also opposes the prayer for bail and submits mother of the principal accused has been exonerated and prayer has been made to arraign her in the charge sheet.
4. We have considered the materials on record including the statement of the minor. Though the minor contended she was forcibly taken to Tamil Nadu, she also admits there was free mixing between the parties. Whether the minor had eloped with the petitioner out of love

or due to force/coercion requires to be thrashed out during trial. Petitioner is in custody for a considerable period of time and prayer has been made for bringing back a co-accused who was discharged in the array of offenders. Hence, there is no possibility of trial commencing in the near future.

5. Under such circumstances and in view of the period of detention suffered by the petitioner, we are of the opinion further detention of the accused/petitioner is not necessary and he may be enlarged on bail however, subject to strict conditions.
6. Therefore, the accused/petitioner, namely **Raju Mondal**, 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 Judge, Special Court under the POCSO Act, Basirhat, North 24-Parganas subject to condition that the said 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 and on further condition that the petitioner, while on bail, shall not enter the jurisdiction of Sandeshkhali Police Station and shall provide the address where he shall presently reside to the Investigating Agency as well as the court below and shall report to the Officer-in-charge of the police station concerned within whose jurisdiction he shall presently reside once in a week until further orders.
7. In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.
8. The application for bail, thus, stands allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)

