

16.01.2024.

37.

Ct.No.28.

as

(Allowed)

C.R.M. (DB) 4712 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Habibpur P.S. Case No.279 of 2023 dated 15.08.2023 under Sections 365/376/120B of the Indian Penal Code read with Section 6 of the POCSO Act and Sections 9/10 of the Prohibition of Child Marriage Act.

In the matter of : **Joy Hira @ Joy Dineshchandra Hira.**

.... Petitioner.

Ms. Minoti Gomes.

...for the Petitioner.

Mr. Sudip Ghosh,

Ms. Mamata Jana.

...for the State.

1. Petitioner submits allegation of forcible rape is out and out false. He is in custody for about 128 days. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the bail prayer.
3. We have considered the materials on record. Statement of the minor victim recorded before police and Magistrate are contradictory.
4. Keeping in mind the aforesaid fact and the period of detention suffered by the petitioner, we are inclined to grant bail to the petitioner.
5. Accordingly, the petitioner viz., **Joy Hira @ Joy Dineshchandra Hira** shall be released on bail upon furnishing a bond of Rs.10,000/- each 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, 2nd Court, Malda subject to condition that he 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 the 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. This application for bail is, thus, disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)