

14.08.2024
Court No.1
SL No.3
pk/AP

**HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI**

CRM(DB) 298 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Dhupguri** P.S. Case No. **186 of 2024** dated **14.05.2024** under Sections **341/376(2)(n)/506** of the IPC.

And

In the matter of: **Rahul Islam @ Hossiane**

....Petitioner.

Ms. Srishti Sarker

...For the Petitioner.

Mr. Aditi Shankar Chakraborty
Mr. Arjun Chowdhury

...For the State.

Mr. Anirban Banerjee

...For the de facto complainant.

1. Bail is sought on the ground that the physical relations with the victim girl were not under promise to marry.
2. It appears from the records that the victim had regular physical relations with the petitioner for more than two years.
3. It is submitted by the learned counsel for the de facto complainant that the petitioner had promised to marry her and hence she had agreed to have physical relations with him.
4. It is now well settled that the physical relations on the promise to marry does not amount to an offence under Section 376 of the IPC.

5. Learned counsel for the petitioner submits that the de facto complainant has got married on 1st April, 2024. A Kajinama dated 1st April, 2024 is produced along with a supplementary affidavit before this Court and the same is taken on record.

6. While the petitioner has an opportunity to approach the Magistrate under Section 173(8) of the CrPC, this Court, however, directs the investigating officer to conduct further investigation with regard to the allegation of the de facto complainant having got married.

7. In view of the above facts and circumstances of the case, this court is of the view that the appellant may be enlarged on bail on strict conditions.

8. Accordingly, the petitioner 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 CJM Jalpaiguri on condition that the petitioner shall appear before the trial court on every date of hearing 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 Dhupguri Police Station except for the purpose of attending court proceedings and shall provide the address where he shall presently reside to the investigating agency as well as the trial court and shall meet the officer in charge of the police station concerned within

whose jurisdiction he shall presently reside once in a week until further orders.

9. 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.

10. The application for bail is disposed of.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)