

**HIGH COURT OF TRIPURA
AGARTALA
B.A.03 of 2023**

Sri Haridas Sarkar

.....Appellant(s)

Versus

The State of Tripura

.....Respondent(s)

For Appellant(s)
For Respondent(s)

: Mr. A. Das, Adv.
: Mr. R. Datta, P.P.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Order

20/02/2023

Heard Mr. A. Das, learned counsel appearing for the appellant as well as Mr. Ratan Datta, learned P.P. appearing for the State.

2. This is an application under Section 439 of the Cr.P.C. for granting bail to the accused petitioner in connection with Kakraban P.S. Case No.59/2022 under Section 366(A)/376 of the IPC and Section 4 of the POCSO Act who is in custody from 25.12.2022 till date i.e. 46 days.

3. The prosecution story in brief is that on 19.12.2022 at about 10.30 hrs. the complainant's minor daughter namely Miss Papri Saha aged about 16 years who used to read in Class-IX at Palatana H.S. School left her house with school dress and books in order to go at Palatana H.S. School. But due to non return at home after school hours, the complainant conducted search in all probable places, but could not trace out her. Subsequently, the complainant learnt that one Sujit Sarkar near Panchadeep Singha, P.S. R.K. Pur had kidnapped the victim girl on 19.12.2022. The complainant has also stated in the complaint petition that on 25.12.2022, he could learnt that remaining FIR named Srl. Nos. 2 to 5 are involved in the incident of kidnapping. He has further alleged that due to searching, delay took place in lodging the FIR.

4. On the basis of the written complaint Kakraban P.S. registered the case as Kakraban P.S. Case No.59/2022 under Section 366(A)/376 of the IPC and Section 4 of the POCSO Act and taken up for investigation. During the course of investigation, Kakraban P.S. call the accused petitioner on 23.12.2022 for knowing whereabouts of the victim as well as the prime accused Sri Sujit Sarkar, but the accused petitioner told the police officer that Sujit Sarkar along with the victim Papri Saha left the house of accused petitioner on 20.12.2022 by saying that they are returning to their respective homes at Palatana, Kakraban but subsequently, it has come to the knowledge that the alleged victim including Sujit Sarkar did not return to their house at Palatana, Kakraban.

5. It is to be mentioned here that when the principle accused Sujit Sarkar along with the victim Papri appeared in the house of the accused petitioner at Melagarh, then the accused petitioner along with wife talked with the victim and Sri Sujit Sarkar and when both of them learnt the issue that both the victim and Sri Sujit Sarkar left their respective house without any intimation to their guardians, then and there, the accused petitioner along with his wife requested them to return back to their house immediately. In the meantime, it was also come to the knowledge that the alleged victim is minor one and as such, then and there the accused petitioner along with his wife informed the matter to the father of the victim.

6. On 23.12.2022 and 24.12.2022 the accused petitioner was detained in the Kakraban P.S. by the police personals without any reasons and lastly on 25.12.2022, the accused petitioner was produced before the court below along with another accused Bishnu Singh with a prayer for remanding them to judicial custody. But the same was rejected without any reasons. According to the appellant though the arrested accused was not at all involved in any crime and on the other hand, he along with others informed the complainant regarding the issue.

7. On 25.12.2022 the victim girl returned back to her house and the investigating officer of the case made a prayer for recording her statement under Section 164(5) of the Cr.P.C. where she has categorically mentioned that the victim was recovered on 25.12.2022. On 29.12.2022 the statement under Section 164(5) of the victim was recorded in which she has specifically mentioned that on 20.12.2022, the victim along with the principle accused Sujit Sarkar left the house of the accused petitioner. The accused person was produced before court below but the court below has rejected the bail application of the present accused petitioner. Lastly on 02.02.2023 the bail was again rejected.

Being aggrieved and dissatisfied, the present bail has been preferred.

8. Mr. A. Das, learned counsel appearing for the appellant has submitted that the accused persons are totally innocent regarding the alleged offence and the allegation made by the informant against the accused petitioner is false and concocted one. He has submitted that the statement under Section 164(5) clearly reveals that the alleged victim including Sujit Sarkar took shelter in the house of the accused petitioner and on the next date on 20.12.2022 both of them left the house of the accused petitioner. In such a situation, there is nothing for further detention of the accused petitioner.

9. Heard both sides and perused the evidence on record. It is seen from the record that there is no allegation made under POCSO Act against the accused petitioner namely Haridas Sarkar. Further, no specific allegation or complaint has been made by the victim girl in her statement under Section 164 of the Cr.P.C. against the accused herein. As such, the applicant namely Sri Haridas Sarkar who is in custody from 25.12.2022 till date in connection with Kakraban P.S. Case No.59/2022 under Section 366(A)/376 of the IPC and under Section 4 of the POCSO Act, be released on bail on furnishing a bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount and personal bond to the satisfaction of the concerned Magistrate. Moreover, he shall not intimidate or

allure any person seized of the material information in connection with the said investigation.

In terms of the above, this application stands allowed and disposed of.

A copy of this order be furnished to Mr. Ratan Datta, learned P.P. in the course of the day.

JUDGE

