

29.08.19
Sl. No.8
Ct. No.1
akd
[ALLOWED]

CALCUTTA HIGH COURT
In the Circuit Bench at Jalpaiguri

C. R. M. 792 of 2019

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 26.08.2019 in connection with Kotwali Police Station Case No. 388 of 2018 dated 01.06.2018 under Sections 363/365 of the Indian Penal Code and Section 4 of the POCSO Act.

And

In Re: ***Biswajit Barui***

... .. Petitioner

Mr. Jaydeep Kanta Bhowmik .. Advocate

... .. for the petitioner

Mr. Kallol Acharjee .. Advocate

Mr. Aniruddha Biswas .. Advocate

... .. for the State

The petitioner is seeking bail in connection with a case relating to offences punishable under Sections 363/365 of the Indian Penal Code and Section 4 of the POCSO Act.

It is submitted on behalf of the petitioner that there was a love affair between the parties and he was granted pre-arrest bail by the Sessions Judge. Subsequent to addition of graver offence under Section 4 of the POCSO Act, he was taken into custody.

Learned advocate for the State opposes the prayer for bail and submits that the petitioner indulged in penetrative sexual assault on a minor.

We have considered the materials on record including the medical report. It appears that cohabitation with a minor had arisen out of a love affair between the parties. We find that the petitioner had been

granted pre-arrest bail which was cancelled due to addition of the graver offence, as aforesaid, and since then he is in custody. Keeping in mind the aforesaid facts and circumstances of the case, we are of the opinion that further detention of the accused/petitioner is not necessary.

Therefore, the accused/petitioner, namely ***Biswajit Barui***, 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, Jalpaiguri 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 or commit similar offences in future.

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.

The application for bail, thus, stands **allowed**.

(Manojit Mandal, J.)

(Joymalya Bagchi, J.)