

22.09.2020

ssd

CRM 6899 of 2020

(Via Video Conference)

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with Banarhat P.S. Case No.167 of 2019 dated 17.09.2019 under Section 376AB of the Indian Penal Code and Section 6 of the POCSO Act.

And

In the matter of: **Fulchand Munda @ Bura**

....Petitioner.

Mr. Debjit Kundu

...for the Petitioner.

Mr. Aditi Shankar Chakarborty

Mr. Tapan Bhattacharya

...for the State.

The petitioner undertakes to appropriately stamp the petition as per the Rules within 48 hours of resumption of normal functioning of the court. The petition is taken up through video conference on the basis of such undertaking.

The petitioner claims that because of an enmity between the two families a completely false complaint has been lodged and the petitioner is in custody for more than 300 days.

The charge-sheet has been filed.

The State places the statement of the 10-year-old survivor recorded under Section 164 of the Code. The survivor alleges violation. However, the medical test, which was conducted several days after the alleged incident, did not immediately reveal any marks of injury.

The statement of the victim makes out that the petitioner was in the habit of violating her over a period of time. The medical report reveals that the hymen was ruptured.

Since there is prima facie evidence of the survivor being subjected to sexual acts and her statement is that the petitioner had violated her over a period of time, the mere fact that the trial cannot be conducted in the present Covid times may not be sufficient reason to release the petitioner at this stage.

The prayer for bail is refused.

CRM 6899 of 2020 is disposed of.

(Sanjib Banerjee, J.)

(Aniruddha Roy, J.)