

25.9.2020

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Ct-16

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C.R.M. 7176 of 2020

(Via Video Conference)

In re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with New Jalpaiguri P.S Case No. 993 of 2020 dated 13.8.2020 under Sections 4/5/6 of Immoral Traffic (Prevention) Act, 1956.

And

In the matter of: Kali Das Sarkar & Anr.
...Petitioners.

Mr. Rajesh Kumar Sharma ... For the Petitioners

Mr. Adity Sankar Chakraborty
Mr. Tapan Bhattacharya ... For the State

The petitioners undertake to appropriately affirm and stamp the petition as per the Rules within one week of resumption of normal functioning of the Court. The petition is taken up through video conference on the basis of such undertaking.

The short and simple case of the petitioners is based on the recent view expressed by a coordinate bench that in cases relating to immoral trafficking, the statement of the survivors should be immediately obtained under Section 164 of the Code.

There is a charge of immoral trafficking in this case but Section 6 of the Immoral Traffic (Prevention) Act, 1956 has also been slapped. That charge pertains to any person being detained against such person's will and subjected to sexual acts with any person other than such person's spouse.

The father and son petitioners herein are the owners of a hotel.

The State relies on an independent statement to the effect that immoral trafficking was carried on at the hotel premises. There are other similar statements in the records.

However, it does not appear that the investigation has been conducted upto the desired level, possibly because these cases become gold mines for the investigating personnel and their political patrons.

Merely because there may not have been any victim found at the premises or any statement of any victim recorded does not imply that there is no material that these petitioners were running brothel at the hotel.

Considering the material already available, these petitioners do not qualify to obtain bail.

CRM 7176 of 2020 is disposed of.

(Sanjib Banerjee, J.)

(Aniruddha Roy, J.)