

29.9.2020
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CRM 7265 of 2020
with
I A No. CRAN 1 of 2020
(Via Video Conference)

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Berhampore P.S. Case No. 685 of 2020 dated 11.7.2020 under Sections 363/366/34 of the Indian Penal Code and Section 4 of Protection of Children from Sexual Offences Act, 2012.

And

In the matter of: **Rajib Biswas @ Rajib @ Obaidul Biswas.**
....Petitioner.

Mr. Somnath Adhikary

...for the Petitioner.

Mr. Sudip Ghosh
Mr. Bitasok Banerji

...for the State.

The petitioner undertakes to affirm and 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.

Learned advocate for the petitioner submits that the petitioner and the victim were known to each other and the other materials so collected by the Investigating Agency reveal that there were consent between the parties. Learned advocate further submits that as charge-sheet has already been submitted, custodial detention of the petitioner may not be required.

Learned advocate for the State draws attention of this Court to the statement of the victim under 164 of the Code of Criminal Procedure and opposes the prayer advanced by the petitioner.

We have taken into account the materials so relied upon by the prosecution as well as the petitioner, we are not happy with the conduct of the present petitioner as he was not available during the course of investigation.

Having considered the nature of the offence and the age of the victim, we overrule the contention of the petitioner so far as the consent is concerned as the case involves offence under Protection of Children from Sexual Offences Act, 2012

Accordingly, the prayer for anticipatory bail is rejected.

(Subrata Talukdar, J.)

(Tirthankar Ghosh, J.)