

16 06.10.2020
rkd Ct. no.12
(Allowed)

C.R.M. 7612 of 2020
(Through Video Conference)

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Rampurhat** P.S. Case No. **47 of 2020** dated **25/01/2020** under Sections **376(2)(n)/376DA** of the Indian Penal Code and under Sections **4/6/8** of the POCSO Act.

And

In the matter of: Amit Bauri & Ors.

....petitioners.

Mr. B. Banerjee

...for the petitioners.

Mr. Saswata Gopal Mukherjee, P.P.,
Mr. P.P. Das

...for the State.

Petitioners undertake to affirm and stamp the petition/application as per Rules within a month of resumption of normal functioning of the Court. Subject to such undertaking, the application is taken up for hearing through video conference.

Petitioner no.1 is in custody for 254 days and petitioner nos.2 & 3 are in custody for 198 days respectively. It is further submitted that there is delay in lodging the first information report. There is significant difference in the genesis of the incident as narrated in the F.I.R. vis-a-vis the statement of the victim before the Magistrate recorded under Section 164 Cr.P.C.

Learned counsel appearing on behalf of the State opposes the prayer for bail and submits that the victim was a minor and had been threatened.

We have considered the materials on record including the statement of the victim recorded under Sections 164 Cr.P.C. While in the F.I.R. she stated to have been ravished on two occasions, in her statement before Magistrate under Sections

164 Cr.P.C. there is no specification with regard to date and time of the incident. Keeping in mind the aforesaid dichotomy and the protracted period of detention suffered by the petitioners in the light of the submission relating to delay in lodging the first information report, we are inclined to grant bail to the petitioners.

Accordingly, the petitioners are directed to be released on bail upon furnishing a Bond of Rs. 10,000/- each with two sureties of like amount each, one of whom must be local, to the satisfaction of the Learned Judge, Special Court, under POCSO Act, Rampurhat, Birbhum subject to the condition that during bail they shall appear before the learned trial court regularly and they shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event the petitioners fail to comply with the conditions as enshrined hereinbefore, it is open to the trial court to cancel the bail without any further reference to this Court.

The application for bail is, thus, disposed of.

(Aniruddha Roy, J.)

(Joymalya Bagchi, J.)