

19.11.2020
Court No. 16
Item No.18
(D/L)
akd & ab

**CRM 8651 of 2020
(Via Video Conference)**

In Re: An application for Bail under Section 439 of the Code of Criminal Procedure in connection with Debra Police Station Case No. 701 dated 30.12.2019 under Sections 341/376D/328/34 of the Indian Penal Code read with Section 6 of the POCSO Act.

and

In the matter of: Akash Singh @ Samilon.

..... Petitioner

Mr. Rajeswar Chakraborty.

.....for the Petitioner

Ms. Faria Hossain,

Mr. Subrato Roy.

..... for the State

The petitioner undertakes to 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 petitioner claims to stand on the same footing as one Biswajit Khanra who has been granted bail by this Court on August 24, 2020 in CRM 5905 of 2020.

The State produces the case diary and says that the survivor has clearly identified this petitioner and, as such, this petitioner cannot be said to be standing on the same footing as of Biswajit Khanra who was neither named in the FIR nor in the statement tendered by the survivor and not even identified by the survivor.

The survivor's statement recorded under Section 164 of the Code clearly indicates that two persons had raped her. Such statement also refers to three other persons, who were in the vicinity and drinking, and such persons apparently did not raise a finger to save the survivor. It is possible, since the survivor identified this petitioner, that this petitioner was one of such three persons. However, the statement does not allege that such

persons who were drinking also committed rape.

Since the principal charge under Section 376 of the Indian Penal Code is not attracted against this petitioner, at least as evident from the statement of the survivor, the further detention of the petitioner is deemed unnecessary.

However, the petitioner must attend every date fixed for trial. In the event of any unexplained absence, the trial court will be entitled to cancel the bail without reference to this court.

The petitioner will be enlarged on bail upon furnishing security 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 appropriate court in Paschim Medinipur.

CRM 8651 of 2020 is disposed of.

(Sanjib Banerjee, J.)

(Hiranmay Bhattacharyya, J)