

18/11/2020  
Item No.2 SL  
AB/SDE

**Through Video Conference**

**CRM 9063 of 2020**

In Re : An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kaliyaganj P.S.Case No.286 of 2020 dated 6.8.2020 under Section 376(2)(i) of the Indian Penal Code read with Section 4 of the POCSO Act

**Ainat Ali @ Hasiruddin  
Vs  
The State of West Bengal**

Mr. Pronojit Roy                      ...for the Petitioner.

Mr. S. S. Imam,  
Mr. Subrata Roy                      ...for the State.

The petitioner undertakes to affirm and stamp the petition/application as per the Rules within one month of resumption of normal functioning of the Court. The petition is taken up through video conference on the basis of such undertaking.

The petitioner says that he has been framed. False charges under Section 376(2)(i) read with Section 4 of the Protection of Children from Sexual Offences Act have been brought against him. He further says that he has been in custody for 102 days. Charge sheet has been filed.

Learned Counsel for the State relies on the statement of the survivor recorded under Section 164 of the Code of Criminal Procedure. He also relies on the medical report.

We have considered the materials on record. The medical report does not reveal any injury. The statement recorded

under Section 164 of the Code does not prima facie reveal offence under Section 376(2)(i) of the Indian Penal Code or Section 4 of the Protection of Children from Sexual Offences Act.

Having considered the facts and circumstances of the case, we are of the view that further custodial detention of the petitioner may not be necessary.

Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand only) with two sureties of like amount each, one of whom shall be local, to the satisfaction of the appropriate court in Uttar Dinajpur on condition that in the event the petitioner has a passport, he shall forthwith surrender the same to the learned trial court and shall also attend the trial court on each and every date of trial and any unexplained failure to do so will entitle the trial court to cancel the bail that we are granting without reference to this Court.

None of the observations made in this order shall have any bearing on the proceedings including trial and disposal of the main matter before the trial court.

The application for bail is, accordingly, allowed.

***(Thottathil B. Radhakrishnan, C.J.)***

***( Arijit Banerjee, J.)***

