

16.12.2020
Sl. No.75
akd
[ALLOWED]

C. R. M. 10454 of 2020 [via video conferencing]

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 11.12.2020 in connection with Baruipur Women Police Station Case No. 32 of 2019 dated 10.09.2019 under Sections 363/366A/370/370A/372/373/120B/34 of the Indian Penal Code, Sections 3/4/5/6/7/9 of the Immoral Traffic Prevention Act and Sections 4/17 of the POCSO Act.

And

In Re: **Santu Sarkar & Anr.**

... .. Petitioners

Md. Sabir Ahmed .. Advocate

Mr. Apan Saha .. Advocate

Mr. Shraman Sarkar .. Advocate

... .. for the petitioners

Mr. Madhusudan Sur .. Ld. Addl. Public Prosecutor

Mr. Dipankar Pramanick .. Advocate

... .. for the State

It is submitted on behalf of the petitioners that they are in custody for over one year. It is further submitted that the petitioners have been falsely implicated in the instant case.

Learned Additional Public Prosecutor opposes the prayer for bail.

We have considered the materials on record. There is wide schism between the statements of the minor victims recorded under Sections 161 and 164 of the Code of Criminal Procedure. While in their statements under Section 161 of the Code of Criminal Procedure the minors alleged sexual assault, no such allegation is transpiring from their statements recorded before the Magistrate under Section 164 of the Code of Criminal Procedure. In view of the aforesaid dichotomy in their statements and the protracted period of detention suffered by the petitioners, we are of the opinion that further detention of the accused/petitioners is not necessary and they may be enlarged on bail however, subject to strict conditions.

Therefore, the accused/petitioners, namely **(1) Santu Sarkar & (2) Rita Sarkar @ Sathi @ Manasha Sardar**, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only) each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the POCSO Act, Baruipur, South 24-Parganas subject to condition that the said petitioners shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever or commit similar offences in future and on further condition that the petitioners, while on bail, shall not enter the jurisdiction of Baruipur Women Police Station until further orders except for the purpose of investigation and/or for attending court proceedings and shall provide the address where they shall presently reside to the Investigating Agency as well as the court below and shall report to the Officer-in-charge of the concerned police station within whose jurisdiction they shall presently reside once in a week until further orders.

In the event they fail to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel their bail automatically without reference to this court.

The application for bail, thus, stands **allowed**.

(Suvra Ghosh, J.)

(Joymalya Bagchi, J.)