

**CIRCUIT BECH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

19.02.2020

Court No.01
Item No. 15
snandy

(DISPOSED OF)

CRM 1091 of 2019

In Re:- An application for anticipatory bail filed under section 438 of the Code of Criminal Procedure filed on 02.12.2019 in connection with Bhaktinagar Police Station Case No. 293 of 2019 dated 22.04.2019 under Sections 6/17 of the Protection of Children from Sexual Offences Act, 2012.

And

In the matter of : **Sudip Dey @ Bura**

.....Petitioners

Mr. Anirban Banerjee, Advocate

....For the Petitioners

Mr. Aditi Sankar Chakraborty, learned A.P.P.

Mr. Sagnik Sankar Sikdar, Advocate

....For the State

Apprehending arrest in Bhaktinagar Police Station Case No. 293 of 2019 dated 22.04.2019 under Sections 6/17 of the Protection of Children from Sexual Offences Act, 2012 (POCSO), the petitioner who is one of the two accused persons, has filed the instant application under Section 438 of the Code of Criminal Procedure praying for anticipatory bail.

We have heard learned Counsel for the petitioner as well as learned Counsel for the prosecution. We are told that the other accused person is in custody.

We have considered the materials in the case diary including the medical report and statements of persons who had seen the accused person in the company of the victim, recorded under Section 161 of the Code of Criminal Procedure. We have considered the nature and gravity of the alleged offence. The victim girl was 13 years old at the time of the incident.

Learned Counsel for the petitioner submits that since chargesheet has been filed, custodial interrogation of the petitioner is not necessary. Hence anticipatory bail should be granted.

Learned Counsel for the prosecution strongly opposes the prayer of the petitioner.

Having considered the factors enumerated in Section 438 of the Code of Criminal Procedure and on an appreciation of the totality of the facts and circumstances of the case, we are of the view that ends of justice would be served if we pass the following order:

- i) The petitioner shall not be arrested for a period of four weeks from date subject to the petitioner surrendering before the Special Court under POCSO Act., Jalpaiguri, immediately.
- ii) He shall be at liberty to apply for regular bail and if such an application is made, the same shall be decided by the learned Court below in accordance with law without being influenced by any observation made in this order and as expeditiously as possible.

The application being **CRM 1091 of 2019** is thus **disposed of**.

(Abhijit Gangopadhyay, J)

(Arijit Banerjee, J)

