

In re: An application for bail under Section 439 of the Code of Criminal Procedure in connection Kolaghat Police Station case No. 235 of 2020 dated 16.08.2020 under Section 6 of the POCSO Act but the charge was framed under Section 10 of the POCSO Act.

**In the matter of :Haradhan Malik
.... Petitioner**

Mr. Milon Mukherjee, Senior Advocate,
Mr. Suman De,
Mr. Debanshu Ghorai,

.... For the petitioner

Mr. P.K.Dutta,
Mr. Pradipta Kumar Ganguly, ... for the State

Kolaghat Police Station case No. 235 of 2020 was registered under Section 6 of the Protection of Children from Sexual Offences Act. On completion of investigation police submitted charge-sheet. The learned Additional Sessions Judge, 2nd Court at Tamluk being the designated Special Judge under POCSO Act framed charge against the accused under Section 10 of the said Act on perusal of the materials on record.

From framing of charge, it is prima facie found that there was no other aggravated penetrative sexual assault within the meaning of Section 6 but, at best, according to the learned trial Judge there was material to frame charge against the petitioner for aggravated sexual assault and accordingly charge was framed under Section 10 of the said Act.

It is submitted by Mr. Mukherjee, learned senior counsel that the petitioner is in custody for about 153 days. Charge has already been framed. The victim girl

refused to get herself medically examined on the point of aggravated sexual assault through her mother. though the age of the victim girl was stated to be eight years, the investigating officer did not collect any document except one ration card as a proof of date of birth of the victim girl. Considering such circumstances, he has prayed for releasing the accused on bail.

Learned P.P.-in-Charge , on the other hand submits that considering the period of detention of the accused if the Court thinks to release him on bail, stringent conditions should be imposed upon him so that due process of administration of justice may not hamper.

Having heard the learned counsel for the petitioner and the State , I am inclined to release the petitioner on bail. Petitioner may find bail of Rs. 20,000/- with two sureties each of like amount to the satisfaction of the learned Chief Judicial Magistrate, Tamluk , Purba Medinipur and on further condition that during the period of bail and during the trial of the case he will not enter into the jurisdiction of Kolaghat Police Station and will not induce or threaten the witnesses in any manner. The petitioner shall also file an affidavit stating his present residential address to the Officer-in-Charge of Kolaghat Police Station. He will also be available on all the dates of trial before the learned Judge in trial Court if the petitioner violates any such condition, the order of bail shall be cancelled without further reference to this Court.

(Bibek Chaudhuri, J.)