

10.03.2021

Item No.01

Ct.No.28

Subha

rejected

C.R.M. 451 of 2021

(Via Video Conference)

In Re : An Application for bail under Section 439 of the Code of Criminal Procedure.

-And-

In the matter of : **Haider Sk @ Haidar Sekh @ Haydar Sekh**
... Petitioner.

Mr. Sarwar Jahan
Mr. Anisur Rahaman

... For the Petitioner.

Mr. Rudrardipta Nandy

... For the State.

Ms. Debapriya Mukherjee

...for the victim girl(Heena Das)

The present application under Section 439 of the code of Criminal Procedure has been preferred in connection with C-SPL 50 of 2020 arising out of Berhampur P. S. Case No. 620 of 2020 dated 29-06-2020 under Sections 376/370/372/373/34 of the Indian Penal Code and Sections 3/4/5/7 of IPTA, 1956 and Sections 4/8/12/17 of the POCSO Act, 2012 and Section 75 of the J.J Act.

Mr. Jahan, learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated. He is not the owner of 'Abar Aso Dhaba'. In the

complaint it has *inter alia* been stated that one of the owners of the concerned hotel is one Mallick Haider Sk., who had fled away. From the records it would be explicit that the petitioner was at the place of occurrence and was arrested as a customer. In view of such inconsistencies and since upon completion of investigation, charge sheet has already been submitted, further detention of the petitioner, who is in custody for more than 240 days, is not warranted.

He further submits that a co-accused person namely, Emajuddin Sk has already been enlarged on bail by an order dated 9th December, 2020 passed by a co-ordinate Bench of this Court in CRM 9565 of 2020.

Drawing our attention to the statements of the victim girls, as recorded under Section 164 of the Code, the other materials in the case diary and letters issued by Prodhan, Manindranagar Gram Panchayat and the Block Land and Land Reforms Officer(Sadar), Berhampore, Murshidabad, Mr. Nandy, learned advocate appearing on behalf of the State opposes the petitioner's prayer and submits that the petitioner and one Arman Sk. were running the concerned hotel on rental basis and the actual owner of the hotel namely, 'Abar Aso Dhaba' is one Subhankar Chakraborty. He also informs this Court that further investigation is in progress.

We have perused the materials in the case diary. The petitioner's name features in the charge sheet, wherein

there is only one Haider Sk. *Prima facie*, the petitioner's culpability is explicit from the materials on record. The offence alleged is despicable in nature and the victims are vulnerable witnesses. Considering the gravity of the offence and the extent of complicity of the petitioner in the alleged offence, we are not inclined to exercise discretion in favour of the petitioner. As such, the petitioner's prayer for bail is rejected at this stage.

The application for bail being CRM 451 of 2021 is, accordingly, dismissed.

The personal appearance of the investigating officer is dispensed with and the case diary is handed over to Mr. Nandy.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Tirthankar Ghosh, J.)

(Tapabrata Chakraborty, J.)