

20.01.2021

Sl. No. 14

Srimanta

Ct. No. – 30

D/L

**CRM/644/2021
(Via Video Conference)**

In Re : An application for bail under Section 439 of the Code of Criminal Procedure in connection with Order No. 15 dated 18.12.2020 passed by the Learned Judge, Special Court under POCSO Act, Jangipur, Murshidabad in POCSO Case No. 42/2020 arising out of Raghunathganj Police Station Case No. 470/2020 dated 29.09.2020 under Sections 12/14/15 of POCSO Act subsequently on 21.11.2020 Section 67B of I. T. Act.

In the matter of : Rajpal Singh & Ors.

... Petitioners.

Mr. Milon Mukherjee, Sr. Adv.,

Mr. Usof Ali Dewan, Adv.,

Mr. Asif Dewan, Adv.

... for the petitioners.

Mr. Ranabir Roychowdhury, Adv.,

Mr. Mainak Gupta, Adv.

...for the State.

The petitioners are in custody in connection with POCSO Case No. 42 of 2020 corresponding to Raghunathganj Police Station Case No. 470/2020 dated 29th September, 2020 under Sections 12/14/15 of POCSO Act and Section 67B of the Information Technology Act.

Bail is prayed for the accused persons on the ground that charge-sheet was not filed within the statutory period of sixty days. The accused persons were arrested at Rajasthan on 6th November, 2020 and they are produced before the Learned Judge, Special Court on 9th November, 2020. They were taken to custody and since then they are in judicial custody. Subsequently, on 12th January, 2021 an application was filed by Investigating Officer for adding Section 389 of

the Indian Penal Code. Accordingly, an order was passed. Charge-sheet was submitted on 19th January, 2021.

Thus, no prayer was made within sixty days from the date of arrest for adding Section 389 of the Indian Penal Code against the accused persons. No explanation was also submitted by the Investigating Officer for delay in making such prayer. Statutory period expired in respect of the original case as instituted on 5th January, 2021. On 5th January, 2021 the accused petitioners were entitled to bail under Section 167 of the Code of Criminal Procedure.

For the reasons stated above, I am inclined to allow the prayer for bail. The accused persons be enlarged on bail of Rs.20,000/- each with two sureties of Rs.10,000/- each, one of whom must be a local surety to the satisfaction of the Learned Special Judge, POCSO Court, Jangipur, Murshidabad with further condition that during the period of bail they will stay within the jurisdiction of Sagardighi Police Station and shall be present during trial of the case before the Learned Trial Court. They will also file an affidavit stating their addresses within Sagardighi Police Station to the Learned Trial Judge on the first date of commencement of trial.

The instant matter is brought to the notice of the Superintendent of Police to take note of the fact that the Investigating Officer of this case without any rhyme or reason delayed in making prayer for adding Section 389 of the Indian Penal Code before the statutory period against the accused persons for which they are granted bail. The Superintendent of Police, Jangipur Police District is at liberty to take departmental action against the Investigating Officer if there appears intentional laches or fault on his part.

(Bibek Chaudhuri, J.)