

260 13.04.2021
rkd Ct. No.28
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C.R.M. 826 of 2021

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Labpur** P.S. Case No. **69 of 2020** dated **20/03/2020** under Sections **363/365/120B** of the Indian Penal Code and under Sections **4/6** of the POCSO Act.

And

In the matter of: Hemanta Ghosh

....petitioner.

Mr. Sujoy Sarkar

...for the petitioner.

Ms. Faria Hossain,
Ms. Baisali Basu

...for the State.

The facts of this case gives a very solid picture. How the investigations are being carried out and how the matters are being dealt with by the courts in connection with the cases arising under the POCSO Act. The orders granting bail in such cases read with the facts and the materials available on record left a very sorry state of affairs and show insensitivity of the persons dealing with the matter in the instant case.

Having regard to the statement of the victim recorded under Section 164 Cr.P.C. and the medical examination reports custodial interrogation of all the accused persons ought to have been done instead of it appears that the learned Additional Sessions Judge, Bolpur, Birbhum granted bail to six accused persons who misused the liberty granted to them and presently are absconding. The present petitioner is part of the conspiracy as evident from the statement recorded under Section 164 of the Code of Criminal Procedure. In view of the incriminating

materials available against all the accused persons including the petitioner, we feel that the custodial detention of the petitioner is necessary and we find no reason to grant anticipatory bail to the petitioner.

We direct the Superintendent of Police, Birbhum to execute the warrant of arrest on or before 18th April, 2021 and produce all the accused persons before the learned Trial Court. The learned trial court shall deal with the execution of all warrant orders in accordance with law. This order shall immediately be communicated by the Registrar General to the District Judge, Birbhum who shall ensure compliance of this order. This order shall also be communicated to the jurisdictional Superintendent of Police by the learned Registrar General for compliance.

This matter shall be listed on Monday under the heading "To Be Mentioned" only for the purpose for recording compliance.

The learned Trial Court in deciding the application for bail and or anticipatory bail shall take into consideration the reverse burden of proof as clearly stated under Section 29 of the Protection of Children from Sexual Offences Act, 2021.

The State shall file compliance report physically in Court.

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

(Tirthankar Ghosh, J.)

(Soumen Sen, J.)