

12.03.2021

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Ct. 30

CRM 974 of 2021

(Via Video Conference)

In Re: an application for bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with Special (POCSO) Case No. 33 of 2020 arising out of Labpur Police Station Case No. 159 of 2020 dated 12.12.2020 under Sections 341/354 of the Indian Penal Code and under Section 8/12 of the Protection of Children from Sexual Offences Act,

And

In the matter of:

Asish Joardar alias Asish Joyardar

Vs.

The State of West Bengal

Mr. Sujoy Sarkar

Mr. Vijay Verma

...for the petitioner

Ms. Zarren Khan

Ms. Sreeparna Das

...for the State

Learned advocate for the petitioner is permitted to correct the cause title of the petition.

Having heard the learned advocate for the petitioner and the learned P.P.-in-Charge and on perusal of the C.D., specially the written complaint filed by the mother of the victim girl and statement of the victim and her sister

recorded under Section 164 of the Code of Criminal Procedure, I do not prima facie find ingredients of offence under Section 8 of the POCSO Act.

Section 8 of the POCSO Act is a penal provision for sexual assault which is defined in Section 7 of the said Act. The definition of sexual assault pertains to touching of vagina, penis, anus or breast of the child. Statement of the victim recorded under Section 164 of the Code of Criminal Procedure does not contain any such allegation. The nature of allegation shows prima facie involvement of the accused for committing offence under Section 12 of the POCSO Act for which the maximum punishment is three years. He is in custody for ninety days. Investigation is concluded. Therefore, he is prima facie a Government employee working as a Group-C staff in a school. Therefore, I am inclined to release the petitioner on bail. The petitioner is enlarged on bail of Rs.20,000/- with two sureties of Rs.10,000/- each to the satisfaction of the learned Judge Special Court (POCSO) at Bolpur, Birbhum with further condition that if on bail, the accused shall visit the Officer-in-Charge of the jurisdictional P.S. once in a month and shall submit his residential address, mobile phone number and Epic card number, if any to the Officer-in-Charge of the concerned P.S. on the first date of his visit by swearing an affidavit. If the petitioner violates any of the above conditions, the order

of bail shall be cancelled without any reference to the Bench.

CRM 974 of 2021 is, thus, disposed of.

(Bibek Chaudhuri, J.)