

07.04.2021.
Item No.3
(Rejected)
ab

(Mentioned)

C.R.M. 1525 of 2021

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed on 04.02.2021 in connection with POCSO Case No. 29 of 2019 arising out of All Women Police Station Kharagpur Case No. 16 of 2019 dated 29.03.2019 under Sections 370/372/354B of the Indian Penal Code and Section 5 of the Immoral Traffic (Prevention) Act, 1956;

And

In the matter of : **Bholanath Das @ Bhola.**

... petitioner.

Mr. Soumyajit Das Mahapatra.

...For the petitioner.

Mr. S. G. Mukherjee, Ld. PP,

Mr. Madhusudan Sur,

Mr. Dipankar Pramanick.

...For the State.

This is an application for bail in connection with POCSO Case No. 29 of 2019 arising out of All Women Police Station Kharagpur Case No. 16 of 2019 under Sections 370/372/354B of the Indian Penal Code and Section 5 of the Immoral Traffic (Prevention) Act, 1956 at the behest of the petitioner.

Pursuant to the order dated 6th April 2021 the Investigating Officer of the case is present in Court. Learned Public Prosecutor appears on behalf of the State and submits that the mistake of the Investigating Officer is unintentional.

We perused the materials on record, more particularly, the statement of the victim recorded under Section 164 of the Code of Criminal Procedure where we not only find the specific allegations against the present petitioner but also the mother of the victim. Records reflect that the mother of the victim against whom serious allegations have been made has been discharged from the charge-sheet so filed before the Jurisdictional Magistrate.

Considering the statement of the witnesses, more particularly, the statement of the victim recorded under Section 164 of the Code of Criminal Procedure, we are not inclined to release the petitioner on bail. As such, the prayer for bail of the petitioner is **rejected**.

However, having regard to the manner in which the Investigating Officer has prayed for discharge of the mother of the victim, who, according to the materials surfaced in course of investigation, should have been a party (as an accused), we are of the opinion that the Superintendent of Police, Paschim Medinipur, would conduct an enquiry to check the version of the Investigating Officer and if required proceed with appropriate proceedings against him.

Learned Public Prosecutor submits that the State intends to further investigate into the matter. This Court reserve its opinion and leaves to the State to take appropriate steps.

Accordingly, the application for bail being CRM 1525 of 2021 is disposed of.

(Harish Tandon, J.)

(Tirthankar Ghosh, J.)