

11 02.09.2021
(AD)
Court No.29
(Dismissed)

**C.R.M. 1780 of 2021
(Via Video Conference)**

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 11/02/2021 in connection with **Samserganj** P.S. Case No. **127 of 2019** dated **30/05/2019** under Sections **3/4/5/6/7(ia)** of the Immoral Traffic (Prevention) Act, 1956 and Sections **344 /366A /363/370/370A/120B /511 /376 /372 /373** of the Indian Penal Code and Section **23** of the Juvenile Justice Act and Sections **4/6** of the Protection of Children from Sexual Offences Act, 2012.

And

In the matter of: Rekha Bibi

....petitioner.

Mr. Rajdeep Majumdar

...for the petitioner.

Mr. Rana Mukherjee, Ld. APP

Ms. Zareen N. Khan

...for the State.

Petitioner seeks bail.

Learned Advocate appearing for the petitioner submits that the petitioner is on the same footing as that of Litu Sk @ Alamgir and Beli Bibi who were granted bail by coordinate Benches. He relies upon the order granting bail to Litu Sk @ Alamgir dated September 16, 2020 and the order dated October 8, 2020 granting bail to Beli Bibi. He submits that in Litu Sk @ Alamgir, the Court on September 16, 2020 recorded that although the statement of a victim who is major was recorded under Section 164 of the Code of Criminal Procedure, no statement of another minor girl was recorded under Section 164.

He submits that the statement under Section 164 as against Litu Sk @ Alamgir describes that they are the owners of the brothel. He draws the attention of the Court to the order dated October 8, 2020. He submits that Beli Bibi was granted bail after noticing Litu Sk @ Alamgir. Therefore, he submits that

since the petitioner is on the same footing with the two other co-accused who were granted bail, the petitioner should also be granted bail. He submits that the Court should also take into account the period of custody of the petitioner while considering the grant of bail.

Learned Additional Public Prosecutor draws the attention of the Court to the order dated October 20, 2020 by which the prayer for bail made by the petitioner was rejected. He submits that there are statements recorded under Section 164 of the Code of Criminal Procedure identifying the petitioner as the owner of the brothel. He also contends that the order dated October 20, 2020 was passed after taking into consideration the order dated September 16, 2020 and October 8, 2020 of the coordinate Benches.

In reply, learned Advocate appearing for the petitioner submits that, the same contentions as presently raised were not raised on October 20, 2020.

We have considered the rival contentions of the parties. There are two orders granting bail to two accused, namely, Litu Sk @ Alamgir on September 16, 2020 and Beli Bibi on October 8, 2020. Thereafter, the petitioner approached the Court for bail which was rejected by an order dated October 20, 2020. The order dated October 20, 2020 discloses that the Court found *prima facie* involvement of the petitioner as the brothel owner where minor girls were utilized for sexual exploitation. The Court also returned the finding that the petitioner does not stand on the same footing with the co-accused persons who were granted bail and in view of the gravity of the offence the Court declined to

grant bail to the petitioner.

The period of time in custody, the gravity of the offence and the materials available against the accused and the question whether the petitioner is on the footing as that of other accused granted bail or not, are some of the considerations for granting bail.

In the present case, there subsists a finding by a coordinate Bench on October 20, 2020 on the petition for bail made by the petitioner that the petitioner does not stand in the same footing with the co-accused persons who were granted bail. Nothing is placed before us to establish otherwise. Therefore, we need not take a view which is contrary to the view taken by the coordinate Bench on October 20, 2020.

Considering the gravity of the offence and the materials on record particularly the statement under Section 164 of the Code of Criminal Procedure as against the petitioner, we are unable to grant bail to the petitioner.

C.R.M. 1780 of 2021 is dismissed.

(Debangsu Basak, J.)

(Ananda Kumar Mukherjee, J.)