

29. 16.09.2021
Ct.32
Tanmoy

C.R.M. 1869 of 2021

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on **15/02/2021** arising out of **Pukhuria Police Station Case No. 150/2018** dated **06/05/2018** under Sections **364/302/201/120B** of the Indian Penal Code read with Section **27** of the Arms Act and Section **9(b)** of the Indian Explosives Act.

And

In the matter of: - **Jahiruddin @ Babua**

...petitioner.

Mr. Milon Mukherjee, Ld. Sr. Adv.,
Md. Safiur Rahaman,
Mr. Rahul Ganguly,
Mr. Sourav Paul

...for the petitioner.

Mr. Masud Mallik

...for the *de facto* complainant.

Mr. Sudip Ghosh, Ld. Sr. Govt. Adv.,
Mr. Bitasok Banerjee

...for the State.

An issue has arisen as to whether or not the petitioner was less than 18 years old as on the date of occurrence of the alleged offence. A report was called for from the Investigating Officer. Such report has been filed and is kept with the record. However, Mr. Mukherjee, learned Senior Advocate appearing for the petitioner, says that reliance cannot be placed on that report.

We are of the view that it would be appropriate if the Juvenile Justice Board or the Committee referred to Rule 19 of the Juvenile Justice (Care and Protection of Children) Rules, 2007 goes into this issue and decides as to whether or not the petitioner was less than or more than 18 years old as on the

date of occurrence, i.e., May 5, 2018. Let such decision be taken within eight weeks from the date of communication of this order to the Board or the Committee.

We dispose of this application by granting liberty to the petitioner to approach the appropriate forum once the issue as regards the age of the petitioner is settled by the Board or the Committee, as the case may be.

The State shall communicate to the petitioner or to his learned Advocate, the decision of the Board or the Committee as regards the age of the petitioner within three days from the date of receipt of the decision from the Board/Committee.

Accordingly, the application for bail being C.R.M. 1869 of 2021 is disposed of.

All parties shall act in terms of server copy of this order downloaded from the official website of this Court.

(Bivas Pattanayak, J.)

(Arijit Banerjee, J.)