

16. 05.08.2021
Ct.32
Tanmoy
Allowed

C.R.M. 2031 of 2021

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on **22.02.2021** in connection with **Bishnupur Police Station Case No. 872/2019** dated **30/11/2019** under Section **376** of the Indian Penal Code read with Section **6** of the POCSO Act.

And

In the matter of: - **Binoy Sardar @ Binay Sardar**

....petitioner.

Mr. Prabir Majumder

...for the petitioner.

Mrs. Sukanya Bhattacharya,
Mr. Nirupam Dhali

...for the State.

The allegation against the petitioner is under Section 376 of the Indian Penal Code read with Section 6 of the Protection of Children from Sexual Offences Act.

The Prosecution case is that the victim, a 14 years old girl, was returning from tuition along with her friends. On the way the petitioner pulled her aside and committed rape on her forcefully.

We have seen the material in the Case Diary including the medical report. The medical report says that there was no external injury. We have also seen the statements of witnesses including the statement of the victim girl recorded under Section 164 of the Code of Criminal Procedure.

The petitioner has been in custody for 614 days. The charge has not yet been framed. We are told that 11 dates were fixed for framing of charge but on all those dates the needful was not done.

Considering the material on record and the long period that the petitioner has been in custody and in view of the fact that charge-sheet has been submitted, we are of the view that the petitioner may be enlarged on bail.

Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs. 10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge-in-Charge, Special Court (under POCSO Act), on condition that the petitioner shall appear before the trial Court on every date of hearing and shall meet the Officer-in-Charge of the Police Station within the jurisdiction of which he resides once in a fortnight until further orders and shall not leave the district without leave of the Officer-in-Charge. The petitioner will not try to meet or in any way intimidate the victim girl. The petitioner is further directed not to intimidate the witnesses and/or tamper with evidence in any manner whatsoever and shall not commit similar offence in future.

In the event the petitioner fails to adhere to any of the conditions stipulated above without justifiable cause, the trial Court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this Court.

The application for bail being C.R.M. 2031 of 2021 is, accordingly, disposed of.

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

(Suvra Ghosh, J.)

(Arijit Banerjee, J.)