

16.07.2021

Court No.28
Item No.12
(REJECTED)

Akd/Ab

CRM 2034 of 2021
(Via Video Conference)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed on 09.02.2021 in connection with Panchla Police Station Case No. 228 of 2020 dated 21.09.2020 under Section 376AB of the Indian Penal Code and Section 6 of the Protection of Children from Sexual Offences Act (POCSO), 2012;

And

In the matter of : **Soumen Dhara.**

...Petitioner.

Mr. Ayan Mitra.

...For the Petitioner

Ms. Sukanya Bhattacharya,
Mr. Md. Kutubuddin.

... For the State

The petitioner has filed the instant application for bail under Section 439 of the Code of Criminal Procedure in connection with Panchla Police Station Case No. 228 of 2020 under Section 376AB of the Indian Penal Code and Section 6 of the Protection of Children from Sexual Offences Act, 2012.

Petitioner seeks bail on the ground that the minor victim girl and her father refused for medical examination, which implies that the instant case has been initiated against the petitioner out of grudge and previous enmity. It is further submitted that the petitioner is in custody for nearly 299 days and once the charge-sheet has been submitted, further detention of the petitioner is not required.

The State opposes the prayer for bail and placed before us the statement of the minor victim girl aged about eight years recorded under Section 164 of the Code of Criminal Procedure.

After hearing the respective submissions and upon going through the materials on record, we do not find that mere refusal to

undergo the medical treatment creates an indefeasible right into the accused to get the bail. The statement of the minor victim girl recorded under Section 164 of the Code of Criminal Procedure is vivid, lucid and categorical and aimed at the complicity of the petitioner to the commission of alleged offence. At this stage, we do not think that the petitioner should be released on bail.

The application for bail, being CRM 2034 of 2021, is thus **rejected.**

However, we request the learned Special Judge under POCSO Act, Howrah to expedite the trial of the case.

(Harish Tandon, J)

(Subhasis Dasgupta,J.)