

26.07.2021

(Via Video Conference)

Court No. 28
Item No. PB - 15
nandy/poppy

CRM 2232 of 2021

(bail - rejected)

In Re: An application for **Bail** under Section **439** of the Code of Criminal Procedure filed on 02.02.2021 in connection with J.B.Pur Police Station Case No. 87 of 2020 dated 12.06.2020 under Sections 376AB of the Indian Penal Code and Section 06 of the Protection of Children from Sexual Offences Act. (SPL TR No. 46 of 2020)

and

In the matter of: **Subhas Mukherjee**

..... Petitioner

Mr. Partha Sarathi Chakraborty, Advocate

Ms. Jui Jana, Advocate

.....for the Petitioner

Mr. Saibal Bapuli, Learned A.P.P

Ms. Zareen N. Khan, Advocate

Mr. Mirza Firoz Ahmed Begg, Advocate

..... for the State

The Advocate-on-record of the petitioner undertakes to affirm and stamp the petition/application as per the Rules within four weeks from date. Subject to such undertaking the application is taken up for hearing.

The petitioner is seeking release in connection with the above-referred case. The contention made on behalf of the petitioner is that the petitioner is in custody for the last 405 days for the offence as alleged. The petitioner is 72 years of age, now running 73 whereas the victim is only 8 years of age. The petitioner is a homeopathic Doctor and was attending to treat the victim in presence of her elder sister, aged about 14 years, who was a silent spectator and thus it is pointed out that this petitioner being elderly person has been falsely implicated.

On the other hand, the learned Advocate for the State invites

our attention to the statement of the victim recorded under Section 161 as well as 164 of the Code of Criminal Procedure and other materials-on-record and that of the elder sister who was an eyewitness to the alleged incident.

Having regard to the statement so made and after considering that chargesheet has been submitted and trial is going on after framing of charges and the date is fixed on August 21, 2021 for evidence of the victim girl and also bearing in mind the nature of the offence, we are not inclined to grant bail to the petitioner.

As such, the prayer for bail is **rejected**.

The application being **CRM 2232 of 2021** accordingly **dismissed**.

However, after the evidence of the victim is taken down, the petitioner may renew his prayer for bail. The learned trial Judge is requested to take steps for conclusion of the trial as early as possible bearing in mind the nature of the offence under POCSO Act.

(Bibek Chaudhuri, J.)

(Shivakant Prasad , J.)