

18.06.2021.

Item No.17

(Allowed)

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C.R.M. 2273 of 2021

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed on 26.02.2021 in connection with Pratima P.S. Case No. 167 of 2020 dated 18.11.2020 under Sections 363/365/34 of the Indian Penal Code and adding Section 6 of Protection of Children from Sexual Offences Act;

And

In the matter of : **Mahadeb Maity.**

... petitioner.

Ms. Subhasree Patel,
Mr. Saikat Mondal.

...For the petitioner.

Mr. Saibal Bapuli, Ld. APP,
Ms. Zareen N. Khan,
Ms. Sreeparna Das.

...For the State.

This is an application for bail in connection with Pratima Police Station Case No. 167 of 2020 under Sections 363/365/34 of the Indian Penal Code and adding Section 6 of Protection of Children from Sexual Offences Act at the behest of the petitioner.

Learned Advocate for the petitioner submits that the petitioner is in custody for 215 days, and he has been falsely implicated, as the allegations brought against him under the Protection of Children from Sexual Offences Act would not be attracted and the Protection of Children from Sexual Offences Act is afterthought production of the prosecution. It is also submitted that another co-accused, namely, Sahadeb Maity, has already been released on bail by this Court on 15th January 2021 in connection with CRM 344 of 2021 and his case is on better footing than that of the co-accused, favoured with bail.

Learned Advocate representing the State raises objection against the prayer for bail submitting that there

are materials available in the statement recorded under Section 161 of the Code of Criminal Procedure and the investigation having ended in charge-sheet, prima facie case has been established.

Our attention is drawn to the statement of the victim recorded under Section 164 of the Code of Criminal Procedure, which is not supportive of invocation of Protection of Children from Sexual Offences Act, specifically under Section 6 of the Protection of Children from Sexual Offences Act. The victim even declined to get her medical examined following her recovery. The investigation having ended in charge-sheet, further detention of the accused is not justified, we do not want to distinguish the case of petitioner from that of the co-accused, already favoured with bail, so as to discriminate the petitioner.

Accordingly, the petitioner, namely, **Mahadeb Maity**, be released on bail upon furnishing a Bond of Rs. 10,000/- with two sureties of like amount, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the Protection of Children from Sexual Offences Act, Kakdwip, South 24-Parganas and on further condition that the petitioner shall attend the Court on each date of hearing and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever. The Court makes it clear that for failure to observe the conditions of bail, without any justifiable cause, the Court below shall go for cancellation of the bail without making any reference to this Court.

The application for bail being CRM 2273 of 2021 is **allowed**.

(Harish Tandon, J.)

(Subhasis Dasgupta, J.)