

25.06.2021

Court No.28
Item No.28
(Rejected)

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CRM 2441 of 2021
(Via Video Conference)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Khanakul Police Station Case No. 338 of 2020, dated 23.12.2020 under Sections 376(2)(f)(n) of the Indian Penal Code read with Section 6 of the Protection of Children from Sexual Offences Act, 2012.

And

In the matter of : **Sk. Surajuddin.**

...Petitioner

Mr. Siddhartha Sarkar.

...For the Petitioner

Ms. Zareen N. Khan,
Mr. Mirza Firoz A. Begg.

...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 has filed the instant application for bail under Section 439 of the Code of Criminal Procedure after being arrested in connection with Khanakul Police Station Case No. 338 of 2020 under Sections 376(2)(f)(n) of the Indian Penal Code read with Section 6 of the Protection of Children from Sexual Offences Act, 2012.

A minor victim girl of 17 years of age has volunteered to record her statement under Section 164 of the Code of Criminal Procedure narrating the incident happened with her. She specifically mentioned the name of the petitioner for commission of such offence. The most alarming thing, which we notice, that because of the physical relationship the victim minor girl has given birth to a child. She made an allegation against the petitioner that she was forced to establish the physical relation and has been subjected to a mental torture as well.

The State relies upon the statement of the victim recorded under Section 164 of the Code of Criminal Procedure. To this, learned Advocate for the petitioner submits that the parties have resolved the dispute and there is a cordial relation between them.

We are not inclined to go into such aspect. The statement of the minor victim girl recorded under Section 164 of the Code of Criminal Procedure is such, which prima facie proved the offence having been committed on her and the role of the petitioner cannot be ruled out. We thus reject the application for bail.

However, we have been informed that the case has been committed to trial after submission of charge sheet.

We, therefore, request the learned Special Judge, POCSO Court at Arambag, Hooghly, to fix the date for recording evidence of the witnesses shown in the charge sheet and it goes without saying that the prosecution shall cite the minor victim girl as first witness. Such exercise is expected to be done within six months from the date of the communication of this order.

Accordingly, the prayer for bail of the petitioner is rejected.

The application for bail, being CRM 2441 of 2021, is thus **dismissed**.

(Harish Tandon, J)

(Subhasis Dasgupta, J.)