

19.07.2021

Court No.28
Item No.16
(REJECTED)

Saswata

CRM 2752 of 2021
(Via Video Conference)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed on 15.03.2021 in connection with Bagnan Police Station Case No. 166 of 2020 dated 06.06.2020 under Sections 376DA/323/506 of the Indian Penal Code, 1860 and Section 6 of the POCSO Act, 2012;

And

In the matter of : **Sk. Mahabub Ali**

...Petitioner.

Mr. Sirsendu Sinha Roy

...For the Petitioner

Mr. Saswata Gopal Mukherji, Ld. PP

Mr. Debabrata Chakraborty

Mrs. Manasi Roy

... For the State

Mr. L.Maitra

... For the de facto

The petitioner has filed the instant application for bail under Section 439 of the Code of Criminal Procedure in connection with Bagnan Police Station Case No. 166 of 2020 under Sections 376DA/323/506 of the Indian Penal Code, 1860 and Section 6 of the POCSO Act, 2012.

A technical plea has been taken that neither the complaint nor the statement of the minor victim girl is suggestive of any offence having committed under Section 376DA of the Indian Penal code. It is further submitted that the FIR was lodged belatedly and the petitioner has been wrongfully implicated in connection with the instant case and is languishing in jail for about 408 days.

Learned Advocate for the State opposes the prayer for bail. It is submitted that the minor victim girl has vividly narrated the incident happened with her, more particularly, the role attributable to the

conduct of the petitioner which would further be corroborated by the medical examination report annexed to the case diary.

After hearing the respective submissions, it is no doubt true that the case was registered under Section 376DA of the Indian Penal Code alongwith the other charging Sections of POCSO Act but even if the charge-sheet is filed with Section 376DA of the Indian Penal Code the elements of POCSO Act has been prima facie found from the material unearthed during investigation.

After perusing the medical examination report and the statement of the minor victim girl recorded under Section 164 of the Code of Criminal Procedure, we do not think that this is a fit case where the petitioner should be enlarged on bail.

The application for bail being CRM 2752 of 2021 is, thus, considered and ***rejected***.

(Harish Tandon, J)

(Subhasis Dasgupta,J.)