

05.08.2021
Item no. 36
Court No.32.
S.De.
(Allowed)

(Via Video Conference)

CRM 3187 of 2021

In Re: An application for Bail under Section 439 of the Code of Criminal Procedure filed on 07.04.2021 in connection with Namkhana Police Station Case No. 09 of 2019 dated 04.01.2019 under Sections 363/365 of the Indian Penal Code adding Section 6 of The Protection of Children from Sexual Offences Act.

And

In the matter of : Sk. Saifuddin.

.....Petitioner.

Mr. Soumyajit Das Mahapatra, Advocate,
.....for the Petitioner.

Mr. Tanmoy Kr. Ghosh,
Ms. Sima Biswas, Advocate,
.....for the State.

Allegation against the petitioner is under Sections 363 and 365 of the Indian Penal Code and Section 6 of the POCSO Act.

It is submitted on behalf of the petitioner that he has been falsely implicated and the victim girl has subsequently retracted from her earlier statement recorded under Section 164 of the Code. Trial has commenced.

The State refers to the statement of the victim girl under Section 164 of the Code along with other material in the case diary and opposes the prayer for bail.

We have considered the material on record including the statement of the victim under Section 164 of the Code and her medical report. The petitioner is in custody for two years and four months.

Regard being had to the nature of allegation against the petitioner and also as investigation has concluded and trial of the case has already commenced, we are inclined to hold that further detention of the petitioner shall not serve any fruitful purpose and he may be granted bail.

Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the Ld. Judge, Special Court under POCSO Act, Kakdwip, South 24 Parganas and on further conditions that he shall remain within the jurisdiction of the concerned police station and he shall report to the Officer-in-Charge of the concerned police station once in a fortnight until further orders. The petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to adhere to any of the conditions stipulated above without justifiable cause, the

trial court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Suvra Ghosh, J.)

(Arijit Banerjee, J.)