

09.08.2021

Item no. 48

Ct.32

CHC

Allowed

**C.R.M. No.3660 of 2021
(Via Video Conference)**

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed on 28.04.2021 in connection with Tapan Police Station Case No. 229/2020 dated 27.07.2020 under Sections 498A/302/34 of the Indian Penal Code and added Sections 4/6 of Protection of Children from Sexual Offences Act.

And

In the matter of:-

Samser Chowdhury @ Chaudhuri
... Petitioner

Mr. Partha Chakraborty,
Ms. Sharmistha China
.. for the petitioner

Mr. N. Ahmed, Ld. A.P.P.
Md. Anwar Hossain,
Ms. Trina Mitra
..for the State

The petitioner is in custody for about 140 days and prays for bail.

It is submitted on behalf of the petitioner that he has been falsely implicated and has no nexus with the alleged incident. There is no specific allegation against him in the F.I.R.

The State refers to the case diary including the statements of witnesses recorded under Section 161 of the Cr.P.C.

We have considered the material in the case diary. The prayer for anticipatory bail of the petitioner under Section 438 of the

Code of Criminal Procedure was rejected by a coordinate Bench of this Court on 15.03.2021 in C.R.M.11034 of 2020 and immediately thereafter, the petitioner surrendered before the trial court and is in custody since then.

Upon consideration of the material in the case diary including the statements of the witnesses recorded under Section 161 of the Code of Criminal Procedure, we are of the view that the allegation against the petitioner is omnibus in nature and no specific overt act has been attributed to him.

In view of the same, we are inclined to grant bail to the petitioner.

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 learned Chief Judicial Magistrate, Balurghat, Dakshin Dinajpur, and on further conditions that he shall remain within the jurisdiction of the concerned police station and 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.)