

10.08.2021
Item no. 79
Court No.32.
S.De.
(Allowed)

(Via Video Conference)

CRM 4096 of 2021

In Re: An application for Bail under Section 439 of the Code of Criminal Procedure filed on 09.06.2021 in connection with Malda Police Station Case No. 38 of 2021 dated 21.01.2021 under Section 4 of Protection of Children from Sexual Offence Act.

And

In the matter of : Nimai Musahar.

.....Petitioner.

Mr. Mounick Ghosh, Advocate,

.....for the Petitioner.

Ms. Sukanya Bhattacharyya, Advocate,
Md. Kutubuddin, Advocate,

.....for the State.

The charge is under Section 4 of the POCSO Act. The prosecution says that the petitioner lured away the minor girl and had physical relationship with her. After six days, the petitioner returned the girl to her parents' place.

We have seen the material in the case diary including the statement of the victim girl recorded under Section 164 of the Code of Criminal Procedure. The girl categorically says that she went with the petitioner on her own and that they got married. Apparently, her father went to bring back the petitioner and the victim girl.

In view of the material in the case diary and in view of the fact that charge sheet has been submitted and the petitioner has been in custody for 201 days, we are inclined to allow the petitioner's prayer.

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 Judge, Special Court under the POCSO Act , Malda 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.)