

(Via Video Conference)

CRM 4312 of 2021

In re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with **English Bazar Police Station** Case No. **15 of 2019** dated **20.06.2019** under Sections **341/323/354/379/506/417/34** of the Indian Penal Code read with Sections 6/17 of the Prevention of Children from Sexual Offences Act.

- A n d -

In the matter of : Kailash Mondal

.... Petitioner.

Mr. Minoti Gomes
Mr. K. Biswas,
Mr. Partha Sarathi Das

... For the Petitioner.

Mr. Sukanya Bhattacharyya,
Mr. Md. Kutubuddin,

... For the State.

The petitioner undertakes to affirm and stamp the petition as per Rules within a week from date of passing of this order. Subject to such undertaking, the application is taken up for hearing.

The petitioner says that there was a love affair between the petitioner and the victim girl who was 17 years old at the time of the alleged incident. Apparently, the petitioner had promised to marry the girl. The family of the petitioner and the victim girl had also negotiated. Thereafter, the petitioner backed out. The marriage did not take place. The petitioner says that only for that reason the present false complaint was filed.

The State draws our attention to the statement of the victim girl recorded under Section 164 of the Code. The girl

admits that there was an affair between her and the petitioner. Charge sheet has been filed. We have considered the medical report. No external injury was detected on the victim girl.

In the above facts and circumstances of the case and keeping in view that the petitioner has been in custody for about two years, we are of the opinion that further custodial detention of the petitioner will not serve any useful purpose.

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 not leave 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.)