

22.09.2021

CRM 4475 of 2021

Court No.28
Item No.39
(PARTLY
ALLOWED)

Ab

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed on 30.06.2021 in connection with Bolpur Women Police Station Case No. 50 of 2020 dated 07.11.2020 under Sections 363/365/376(2)(n)/120B of the Indian Penal Code and under Sections 6/17 of the Protection of Children from Sexual Offences Act.

And

In the matter of : **Sk. Jahiruddin @ Pintu and another.**
...Petitioners.

Mr. Sujoy Sarkar.

...For the Petitioner

Mr. Saswata Gopal Mukherjee, Ld. PP.

Ms. Faria Hossain,

Ms. Sonali Das.

... For the State

The Advocate-on-record of the petitioners undertakes to affirm and stamp the petition/application as per the Rules within four weeks from date. Subject to such undertaking, the application is taken up for hearing.

The petitioners have filed the instant application for bail under Section 439 of the Code of Criminal Procedure after being arrested in connection with Bolpur Women Police Station Case No. 50 of 2020 dated 07.11.2020 under Sections 363/365/376(2)(n)/120B of the Indian Penal Code and under Sections 6/17 of the Protection of Children from Sexual Offences Act.

It is submitted by the learned Advocate for the petitioners that they have been falsely implicated in connection with the instant case. It is submitted that there was a love affair between the petitioner no. 1 and the victim girl and they voluntarily left the house with cherished hope of starting a new life, but subsequently a case

has been initiated against the petitioner no. 1 and thereafter on the disclosure of the name of the petitioner no. 2 by the victim girl, he has been implicated in the instant case.

Learned Advocate for the State opposes the prayer for bail. She relies upon the statement of the victim girl recorded under Section 164 of the Code of Criminal Procedure.

After perusing the materials on record and the submission so advanced before us, admittedly, the victim girl is below the age of 18 years and, therefore, is not competent to give consent. Furthermore, the role of the petitioner no. 1 attributable to the commission of offence is evident and apparent from the statement of the victim girl recorded under Section 164 of the Code of Criminal Procedure and, therefore, there is a prima facie material against the petitioner no. 1, which does not warrant any leniency to be shown for the purpose of releasing him on bail.

Hence, the prayer for bail of the petitioner no. 1, namely, **Sk. Jahiruddin @ Pintu**, is rejected.

So far as the role of the petitioner no. 2 is concerned, we find that though his name has been disclosed in the statement of the victim girl recorded under Section 164 of the Code of Criminal Procedure but there is no element of commission of offence under the Protection of Children from Sexual Offences Act or under Section 376 of the Indian Penal Code.

In view of the above, the prayer for bail of the petitioner no. 2 is allowed.

Accordingly, the petitioner no. 2, namely, **Amit Das**, shall be

released on bail upon furnishing a bond of Rs.10,000 /- (Rupees Ten Thousand), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Special Judge (POCSO), Bolpur, Birbhum, subject to the condition that he shall appear before the Trial Court on every date of hearing until further orders.

In the event he fails to do so without any justifiable cause, the Trial Court shall be at liberty to pass necessary order in accordance with law without any further reference to this Court.

The application for bail, being CRM 4475 of 2021, is thus **disposed of.**

(Harish Tandon, J)

(Bibek Chaudhuri, J.)