

22.09.2021

CRM 4441 of 2021

Court No.28
Item No.34
(Rejected)

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In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Howrah Women Police Station Case No. 26 of 2017 dated 23.05.2017 under Sections 363/363A/370A of the Indian Penal Code and Sections 8/12/17 of the Protection of Children from Sexual Offences Act and Sections 76/84 of the Juvenile Justice (Care and Protection) Act, 2015;

And

In the matter of : **Ainur Sk @ Raja**

...Petitioner

Mr. Soumya Basu Roy Chowdhuri.

...For the Petitioner

**Mr. Madhusudan Sur,
Mr. Monoranjan Mahata.**

...For the State.

The Advocate on Record of the petitioner 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 petitioner has filed the instant application for bail under Section 439 of the Code of Criminal Procedure after being arrested in connection with Howrah Women Police Station Case No. 26 of 2017 under Sections 363/363A/370A of the Indian Penal Code and Sections 8/12/17 of the Protection of Children from Sexual Offences Act and Sections 76/84 of the Juvenile Justice (Care and Protection) Act, 2015.

Learned Advocate for the petitioner submits that the victim girl refused to undergo medical test and there is no incriminating material found from the statement recorded under Section 164 of the Code of Criminal Procedure. It is further submitted that the petitioner is languishing in jail since last four years fifteen days and despite the charge sheet has been filed no charges have been framed.

Learned Advocate for the State opposes the prayer for bail. It is submitted that the victim girl has narrated the incident in her statement recorded under Section 164 of the Code of Criminal Procedure and the role of the petitioner attributable to the commission of offence cannot be ruled out. It is further submitted

that though the charge sheet has been filed and the date is fixed on 20th September, 2021 for framing of charges, but he is not in a position to apprise the Court whether the charges have been framed or not.

After hearing the respective submissions and on perusal of the materials available on record including the statement of the victim girl recorded under Section 164 of the Code of Criminal Procedure, we do not find that the petitioner has been able to make out a case as narrated above warranting interference of this Court. Furthermore, the victim girl has vividly narrated the incident, which prima facie constitutes the offence under the Protection of Children from Sexual Offences Act and the role of the petitioner ascribed therein.

The prayer for bail is thus rejected.

However, we request the learned Special Judge under the Protection of Children from Sexual Offences Act to take up the matter on the said date so fixed and efforts shall be made to frame the charges in order to expedite the trial.

The application for bail, being **CRM 4441 of 2021**, is **dismissed**.

(Harish Tandon, J)

(Bibek Chaudhuri, J.)