

37 27.09.2021
(AD)
Court No.28
(Dismissed)

C.R.M. 4900 of 2021
(Via Video Conference)

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 22/07/2021 in connection with **Bakultala** P.S. Case No.**544 of 2019** dated **24/10/2019** under Sections **363/365/366/376** of the Indian Penal Code read with Section **4** of the Prevention of Child from Sexual Offences.
And

In the matter of: Partha Srathi Banik

....petitioner.

Mr. Bipin Baidya

...for the petitioner.

Mr. Bidyut Kumar Roy
Ms. Rita Datta

... for the State.

The petitioner is languishing in jail for more than two years in connection with the aforementioned case. It is submitted by the Learned Advocate for the petitioner that there was love relation between the minor victim girl and the petitioner and no element of offence has been disclosed in the statement of the minor victim girl recorded under Section 164 of the Code of Criminal Procedure.

The State opposes the prayer for bail. It is submitted that the minor victim girl has disclosed the physical relationship having established with her and in view of the stringent provision contained under the POCSO Act, the petitioner is not entitled to the benefit of bail.

Hearing the respective submissions and on perusal of the materials from the case diary, it transpires that two witnesses have been examined by the Special Court constituting under the said Act but the minor girl has not been examined as yet.

Considering the gravity of the offence and the role

attributable to the conduct of the petitioner in commission of the said offence, we are not inclined to release the petitioner on bail at this stage.

However, the prosecution is directed to produce the minor victim girl as the next witness after the evidence of the second witness and liberty is granted to the petitioner to renew the prayer for bail after the completion of the evidence of the minor victim girl, provided the evidence warrants the release of the petitioner.

C.R.M. 4900 of 2021 is dismissed accordingly.

(Harish Tandon, J.)

(Bibek Chaudhuri, J.)