

20.09.2021

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Ct. No. 29
sdas
Allowed

**C.R.M. 4919 of 2021
(Via Video Conference)**

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Malda Police Station Case No. 492 of 2019 dated 07.08.2019 under Section 6 of the POCSO Act.

And

In Re : Biswanath Chowdhury petitioner

Mr. Kallol Mondal
Mr. Musharraf Alam Sk.

.....for the petitioner

Mr. Subrata Roy

....for the State

Petitioner seeks bail.

Learned advocate appearing for the petitioner submits that the petitioner is in custody for two years twenty seven days. He also submits that the victim girl did not undergo any medical test and the petitioner was falsely implicated in the instant case. He further submits that there is a long standing dispute with the brother of the victim girl filing a criminal case against the petitioner in which the stage is recording of evidence. Since the police submitted charge-sheet further detention of the petitioner is not necessary.

Learned advocate appearing for the State draws the attention of the Court to the case diary. He submits that no medical report exists in the case diary. He, however, draws the attention of the Court to the statement of the victim girl recorded under Section 164 of the Code of Criminal Procedure.

Considering the fact that the complaint was lodged on August 7, 2019 of the incident happening on the same date and considering that there is no medical report in the case diary and considering the fact that the trial commenced at the stage of recording of evidence with five prosecution witnesses being examined, we are inclined to grant bail to the petitioner.

Accordingly we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Malda, subject to the condition that 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 appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel bail of the petitioner automatically without further reference to this Court.

The application for bail is, accordingly, allowed.

(Debangsu Basak, J.)

(Ananda Kumar Mukherjee, J.)

