

22.11.2021

**CRM 7071 of 2021**

Court No.28  
Item No.10  
(REJECTED)

Ab

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed on 25.10.2021 in connection with Chinsurah Police Station Case No. 287 of 2021 dated 09.07.2021 under Sections 363/365/366 of the Indian Penal Code read with Sections 4/6 of the Prevention of Children from Sexual Offences Act and Sections 4/5/6 of the Immoral Trafficking (Prevention) Act;  
And

In the matter of : **Tridip Khamaru @ Babai.**

**...Petitioner.**

**Ms. Minoti Gomes.**

**...For the Petitioner.**

**Mr. Rana Mukherjee,  
Mr. Debabrata Chatterjee,  
Mrs. Manasi Roy.**

**... 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 Chinsurah Police Station Case No. 287 of 2021 dated 09.07.2021 under Sections 363/365/366 of the Indian Penal Code read with Sections 4/6 of the Prevention of Children from Sexual Offences Act and Sections 4/5/6 of the Immoral Trafficking (Prevention) Act.

This is a second round of litigation of the petitioner before this Court. Despite the rejection of an earlier application for bail on 4<sup>th</sup> October 2021 in CRM 6654 of 2021, the petitioner filed the instant application within the close proximity of time simplicitor on the ground of parity.

According to the petitioner, the principal accused, namely, Tilak Das, was granted bail by this Court subsequent to the rejection of the earlier application for bail and, therefore, the petitioner should also be treated at par with him.

At the time of entertaining the instant application, the Court showed its anguish over the role of the Advocates appearing for the State in not disclosing the orders passed by this Court on the application for bail filed by the principal accused and allowing the inconsistent order to see the light of the day creating the anomalous situation, more particularly, when the subsequent application for bail is moved either by the co-accused or by the same accused.

An explanation was sought from the Investigating Officer as to why he did not disclose the fact that the earlier application for bail of the co-accused was rejected. A written explanation is submitted before this Court. After perusing the same, we do not intend to make any comment thereupon. However, we decided to continue with the hearing of the instant application.

There is no denial that the earlier application for bail filed by the petitioner was rejected. Subsequently, the other co-accused, namely, Tilak Das, was granted bail by this Court despite the fact that his earlier application for bail was rejected.

If the Court, unnoticing the earlier order, passed an order, which does not appear to be in consonance with the judicial discipline, we do not think that we are bound by such order. We have perused the statement of the minor victim girl recorded under Section 164 of the Code of Criminal Procedure and the role of the

petitioner disclosed by her, prima facie, constituting an offence against the petitioner, we do not think that it is a fit case where the petitioner should be enlarged on bail.

The application for bail being CRM 7071 of 2021 is, thus, ***rejected.***

**(Harish Tandon, J)**

**(Rabindranath Samanta,J.)**