

CRM No.7605 of 2021

Via video conference

13.12.21

(S.R.)

Sl.12

Ct.32

In re: An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with **Nabadwip** Police Station Case No.534 of 2019 dated 14.12.2019 under Sections 363/366/120B of the Indian Penal Code and subsequently added Section 6 of the POCSO Act;

And

In re: Mintu Ghosh

... petitioner.

Mr. Prabir Majumder

... for the petitioner.

Mr. Bidyut Kumar Roy

Ms. Rita Dutta

... for the State.

The present application under Section 439 is filed by the accused, Mintu Ghosh, praying for bail.

Mr. Majumder, learned lawyer appearing for the present petitioner, namely, accused, Mintu Ghosh, submits that the victim girl has already married another person while the present petitioner is in custody and the father of the victim filed an affidavit in the learned Court of District and Session Judge at Krishnagar, Nadia to the effect that the victim girl was not abducted by the present petitioner or the other accused persons, in any manner and that, presently, the *de facto* complainant has no allegation against the present petitioner or the other accused persons. It is further stated that charge has not yet been framed but charge sheet has been filed. The petitioner is languishing in custody for 130 days. There is no justification in detaining the accused in the custody when there is no immediate progress of trial. Accordingly, Mr. Majumder prays for bail.

Mr. Roy, learned lawyer represented the State strongly opposes the bail application and invited our attention to the statement of the victim girl, as recorded under Section 164 of the Code of Criminal

Procedure. According to Mr. Roy, the allegation is grave and serious and strong incriminating elements are there against the present petitioner. It is further submitted that the other co-accused, namely, the mother of the present petitioner is still absconding. Therefore, in such circumstances, he opposes grant of bail.

We have heard rival submissions and perused the case diary and other materials reveal that there are strong incriminating elements against the present petitioner, as it appears from the statement of the victim girl. The instant offence is not a compoundable one, which can be compounded at any point of time. The other co-accused, namely, the mother of the present petitioner is absconding and warrant of arrest has already been issued against her. The statement of the victim girl is strongly incriminating implicating directly the present petitioner.

Therefore, on perusal of the case diary and other materials, we are not inclined to exercise our discretion and grant bail to the petitioner.

Accordingly, the application for bail being CRM No.7605 of 2021 stands dismissed at this stage.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Sugato Majumdar, J.)

(Tapabrata Chakraborty, J.)