

CRM 7653 of 2021
(via video conference)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure ;

And

In Re : Somnath Halder

.....Petitioner

Mr. Ayan Basu
Mr. Gautam Banerjee
Mr. Sandip Kumar Mondal
Mr. Sumit Routh

.....for the Petitioner

Mr. S. S. Imam
Mr. Sandip Kundu

.....for the State

Mr. Parvej Anam

.....For the de facto complainant

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Sonarpur P.S. Case No. 265 of 2021 dated 17/04/2021 under Sections 363/365 of the Indian Penal Code read with Section 6 of the Protection of Children from Sexual Offences Act and Sections 9/10 of the provision of Child Marriage Restrained Act, 2006.

Mr. Basu, learned advocate appearing for the petitioner submits that there was a love relationship between the petitioner and the victim girl. She willingly left her residence and accompanied the petitioner. The ingredients of Section 6 of the Protection of Children from Sexual Offences Act are not attracted in the present case. The victim girl has already been recovered and upon completion of investigation, charge sheet has also been

submitted and as such, further detention of the petitioner, who is in custody for about 241 days, is not warranted.

Learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to the statements of the victim girl, as recorded under Sections 161 and 164 of the Code and also the medical report.

Having heard the learned advocates appearing for the respective parties and considering the materials in the case diary including the statement of the victim girl and the medical report, the nature of allegations and the extent of complicity of the petitioner in the alleged offence, we are of the opinion that further detention of the petitioner, who has already suffered incarceration for about 241 days, is not warranted moreso when upon completion of investigation, charge sheet has been filed.

Accordingly, we allow this application and direct that the petitioner, namely, **Somnath Halder**, shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be a local, to the satisfaction of the learned Judge, Special Court under the POCSO Act, Baruipur, South 24 Parganas with further condition that the petitioner shall attend the learned Court below on all the dates, as specified for hearing and shall not intimidate the witnesses or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioner fails to comply with the aforesaid directions without any justifiable cause, the learned trial court would be at liberty to cancel his bail without any further reference to this Court.

With the aforesaid observations, the application for bail, being CRM No. 7653 of 2021, is disposed of.

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.)