

CRM 8042 of 2021

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Ratua Police Station Case No. 492 of 2021 dated 16.09.2021 (Special Case No.80 of 2021) under Section 376 of the Indian Penal Code read with Sections 6/17 of the Protection of Children from Sexual Offences Act, 2012;

And

In re: **Md. Alamgir & Another**

- Petitioners

Mr. Sourav Chatterjee,
Mr. Koustov Bagchi,
Mr. Arup Sarkar,
Mr. Debayan Ghosh,
Ms. Priti Kar

... for the Petitioners.

Mr. Tanmoy Kumar Ghosh,
Mr. Arindam Sen

... for the State.

Mr. Chatterjee, learned lawyer representing the petitioners, submitted that the principal accused is enlarged on bail. The petitioners are not the principal accused but they are in custody for about 90 days. Charge sheet has been filed. Further detention is not necessary. Accordingly, bail is prayed for.

Per contra, Mr. Sen, learned lawyer representing for the State, submitted that the statement of the victim, recorded under Section 164 of the Code is strongly incriminating against the petitioners. The allegations are serious. Accordingly, bail is opposed.

We have perused the case diary and heard the rival submissions. The statement of the victim girl, recorded under

Section 164 of the Code, is not corroborated by the statements of the other witnesses and suffers from contradictions. We are unable to find any element at this stage to implicate the present petitioners to the alleged offence of sexual assault.

On perusal of the C.D. and other materials, we are inclined to exercise our discretion in favour of the petitioners and accordingly, bail is allowed on furnishing two sureties of Rs.10,000/- each, two of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Chanchal, Malda.

It is further directed that the petitioners shall attend the Trial Court on the dates specified for hearing and shall not tamper with the evidence and/or intimidate the witnesses in any manner whatsoever.

In the event the petitioners fail to comply with the aforesaid directions, without any justifiable cause, the learned trial court shall be at liberty to cancel their bail, in accordance with law, without further reference to this Court.

With the aforesaid observations, the application for bail, being CRM 8042 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.)