

17.03.2021.
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as
(Rejected)

C.R.M. 9645 of 2020

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Eco Park P. S. Case No.119 of 2020 dated 11.07.2020 under Sections 376/323 of the Indian Penal Code and under Section 6 of POCSO Act.

In the matter of : Ansar Ali Mondal.

.... Petitioner.

Mr. Milon Mukherjee, Sr. Adv.,
Ms. Sonali Das.

...for the Petitioner.

Mr. Saswata Gopal Mukherjee, Id. P.P.,
Mr. Partha pratim Das,
Ms. Manasi Roy.

...for the State.

This is an application for bail in connection with Eco Park P. S. Case No.119 of 2020 dated 11.07.2020 under Sections 376/323 of the Indian Penal Code and under Section 6 of POCSO Act at the behest of the petitioner.

It is submitted by Mr. Mukherjee, learned Senior Advocate appearing for the petitioner that he has been entangled in connection with the aforesaid case without any incriminating materials available against him. It is further submitted that there is an apparent variance between the submission of the victim recorded under Section 164 of the Code of Criminal Procedure and the statement before the Medical Officer at the time of examination and, therefore, the petitioner should be enlarged on bail. However, Mr. Mukherjee

put much emphasis on the fact that the victim has already been married and in absence of any ossification test, the State cannot register the case treating the victim as minor.

On the other hand, the learned Advocate appearing for the State opposes the prayer for bail and submits that the statement of the victim recorded under Section 164 of the Code of Criminal Procedure would corroborate the commission of an offence and the age of the victim has also been found from the certificate issued by the school authorities.

It is no doubt true that the investigation is over and the final report has already been submitted by the Investigating Officer. We have further perused the statement of the victim recorded under Section 164 of the Code of Criminal Procedure appended to the Case Diary produced before us and upon reading the contents thereof, even if there is a slight variation but that does not mean the petitioner is entitled to privilege of bail at this stage. However, we appreciate the agony and anguish shown by Mr. Mukherjee despite the fact that the charge sheet has been submitted as far back as on 31st August, 2020, till date the charge has not been framed.

In view of the above and the materials available from the Case Diary, we do not think that the petitioner should be enlarged on bail at this stage.

Accordingly, the prayer for bail of the petitioner is rejected.

However, we request the learned Special Judge to take up the matter on the date so fixed and decide on the framing of

charges without granting any adjournments to either of the parties except on unavoidable circumstances.

(Harish Tandon , J.)

(Tirthankar Ghosh, J.)