

23.02.2021

Item No.17

Ct.No.28

dc.

Allowed

C.R.M. 10980 of 2020

(Via Video Conference)

In Re : An Application for bail under Section 439 of the Code of Criminal Procedure.

And

In Re : **Sk. Babar Ali**

... Petitioner.

Mr. Mrityunjoy Chatterjee,
Ms. Sadhana Bhattacharjee

... For the Petitioner.

Mr. Ranabir Roy Chowdhury,
Mr. Mainak Gupta

... For the State.

The learned advocate-on-record of the petitioner is granted leave to amend the cause title.

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Faridpur P.S. Case No. 73 of 2019 dated 18.07.2019 (Special POCSO Case No. 21 of 2019) under Sections 363/365/366A/370(2)/370(4)/370A/372/120B of the Indian Penal Code read with Sections 16/17 of the POCSO Act.

The learned advocate appearing for the petitioner submits that the petitioner is in custody for a period of 587 days and charge has already been framed in the instant case. The learned advocate also stresses upon the statement of the victim recorded under Section 164 of the Code of Criminal Procedure and submits that narration of facts by

the victim does not attract the section for which the petitioner and others have been implicated. The learned advocate further submits that similarly placed co-accused persons have already been granted bail. Additionally, the learned advocate submits that on any condition, the petitioner may be released on bail.

Mr. Roy Chowdhury, learned advocate appearing for the State opposes the prayer for bail and submits that there are allegations wherein administration of certain medicines were done upon the victim and the case has *prima facie* been established for trial. The learned advocate for the State also submits a report as called for by this Court on the earlier occasion. Let the report dated 11.02.2021 be kept with the record. The said report reflects that there are no antecedents of the present petitioner in respect of similar offence or other offence.

We have taken into account the statement of the witnesses, the stage of the case and the complicity of the present petitioner compared to the other accused persons who are already on bail. Having regard to the same, we are of the opinion that the petitioner has *prima facie* made out a case for being released on bail. As such, his prayer for bail is allowed.

Accordingly, we direct that the petitioner, namely, **Sk. Babar Ali** shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, one of whom must be local, to the

satisfaction of the learned Additional Chief Judicial Magistrate at Durgapur and on further condition that the petitioner shall meet with the Officer-in-Charge of Faridpur Police Station once a week until further orders.

With the aforesaid observations, the application for bail, being CRM 10980 of 2020, is disposed of.

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

(Tirthankar Ghosh, J.)

(Tapabrata Chakraborty, J.)