

17.03.2021

Item No.58

Ct.No.28

dc.

Rejected

C.R.M. 11172 of 2020

In Re : An Application for bail under Section 439 of the Code of Criminal Procedure filed in connection with AJC Bose B Garden P.S. Case No. 172 of 2020 dated 10.10.2020 under Section 376 of the Indian Penal Code and Sections 4/6/8 of the POCSO Act.

And

In Re : **Avijit Sen alias Bulta**

... Petitioner.

Mr. Kusal Kumar Mukherjee

... For the Petitioner.

Mr. Bidyut Kumar Roy,
Ms. Rita Datta

... For the State.

This is an application for bail in connection with AJC Bose B Garden P.S. Case No. 172 of 2020 dated 10.10.2020 under Section 376 of the Indian Penal Code and Sections 4/6/8 of the POCSO Act at the behest of the petitioner.

The learned advocate for the petitioner submits that the petitioner is in custody for 115 days and he has been falsely implicated in the instant case. The learned advocate further submits that the father of the present petitioner instituted a case against the *de facto* complainant, as a counterblast the present case has been instituted. Additionally, the learned advocate submits that as the charge-sheet has already been submitted in the instant case, further detention of the petitioner is not warranted.

The learned advocate appearing for the State opposes the prayer for bail and submits that the victim is aged about four years while the petitioner is aged about 28 years and the statement of the victim recorded under Section 164 of the Code of Criminal Procedure directly points to the complicity of the present petitioner.

We have perused the materials on record which include the statement of the witnesses as also the statement of the victim recorded under Section 164 of the Code of Criminal Procedure. Having considered the nature and gravity of the offence and the present stage of the case, we are not inclined to release the petitioner on bail. Accordingly, the petitioner's prayer for bail is **rejected**.

The application for bail, being CRM 11172 of 2020, is, thus, dismissed.

(Harish Tandon, J.)

(Tirthankar Ghosh, J.)