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23.03.2021
AKG
Allowed

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI

CRM 104 of 2021
(Through Video Conference)

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with Jalpaiguri Women Police Station Case No. 120 of 2019 dated September 23, 2019 under Section 4 of the Protection of Children from Sexual Offences Act, 2012 read with Section 305/34 of the Indian Penal Code, 1860 and Charge Sheet No. 137 of 2019 dated November 20, 2019 submitted under Section 4 of the Protection of Children from Sexual Offences Act, 2012 read with Section 305/34 of the Indian Penal Code, 1860.

And

In the matter of: Shibu Roy

.... Petitioner

Mr. Saikat Chatterjee,
Mr. Anirban Banerjee.

... For the Petitioner

Mr. Aditi Shankar Chakraborty,
Ms. Namrata Das.

... For the State

Learned counsel for the petitioner submits that it will be evident from the suicide note of the victim that there was a romantic affair between the victim and the petitioner. It is further submitted that the suicide note also reveals that some other persons and not the petitioner were responsible for the alleged suicide of the victim.

It is further submitted that the petitioner is already behind the bar for more than one year. The age of the victim on the date of the alleged offence was 5 days short of majority.

Learned counsel representing the State opposes the prayer for bail and submits that there were two suicide notes left by the victim, one of which implicates the petitioner as well, citing the refusal of the petitioner to marry her despite the affair as well as indicating commission of an offence under Section 376 of the Code of Criminal Procedure by the petitioner.

Read in conjunction, the two suicide notes clearly reveal that the victim was all along in love with the petitioner. Since, admittedly, there was a romantic affair, the chance of the sexual intercourse between the victim and the petitioner being consensual cannot be ruled out.

That apart, since the immediate cause of the alleged suicide appears to implicate others and not the petitioner, there is sufficient scope of granting the benefit of bail to the petitioner, more so, since the petitioner is already in custody for more than one year.

Accordingly, CRM 104 of 2021 is allowed, thereby granting bail to the petitioner on condition that the petitioner furnishes 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 Special Court under the POCSO Act at Jalpaiguri.

The petitioner shall attend trial on every date and shall not leave the jurisdiction of the trial court during the period of trial. The petitioner shall desist from making any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade such person from disclosing such facts before any police officer or the court and/or from tampering with evidence.

(Sabyasachi Bhattacharyya, J.)

(Kausik Chanda, J.)