

24.08.2021

court no. : 28
Item no. : JCB - 13
matter : 439
status : ALLOWED
transcriber : nandy

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT
JALPAIGURI**

(Via Video Conference)

CRM 499 of 2021

In Re: An application for **Bail** under Section **439** of the Code of Criminal Procedure filed on 12.07.2021 in connection with Sitalkuchi Police Station Case No. 01 of 2021 dated 04.01.2021 under Sections 363/365 of the Indian Penal Code and Section 6 of the Protection of Children from Sexual Offences Act. (POCSO Case No. 01 of 2021).

and

In the matter of: **Sahanur Mia**

..... Petitioner

Mr. Hillol Sahar Poddar, Advocate

..... for the Petitioner

Mr. Aditi Sankar Chakraborty, Learned A.P.P.

Mr. Biswarup Roy, Advocate

..... for the State

At the very outset we must record that though the application has been captioned as “application for anticipatory bail” but in fact, it is an application for bail filed under Section 439 of the Code of Criminal Procedure.

Advocate-on-record of the petitioner undertakes to affirm and stamp the petition/application as per the Rules within four weeks from date. Subject to such undertaking the application is taken up for hearing.

The petitioner has filed the instant application for bail in connection with Sitalkuchi Police Station Case No. 01 of 2021 dated 04.01.2021 under Sections 363/365 of the Indian Penal Code and Section 6 of the Protection of Children from Sexual Offences Act.

According to the learned Advocate for the petitioner there was a love affair between the minor girl and the petitioner and there is no allegation against the petitioner constituting an offence under Section 6 of the POCSO Act.

The State opposes the prayer for bail and submits that the minor victim girl has narrated the facts and the incidents in her statement recorded under Section 164 of the Code of Criminal Procedure.

We had an occasion to peruse the statement of the minor victim girl recorded under Section 164 of the Code of Criminal Procedure and prima facie we do not find any element of Section 6 of the POCSO Act.

In view of the above, we do not find any justification in keeping the petitioner further in custody for interrogation. Moreover, chargesheet has already been submitted.

As such, the prayer for bail is **allowed**.

Accordingly, the petitioner shall be released on bail on the following conditions:-

- i) The petitioner shall furnish a bond of Rs.10,000/-, with two sureties of Rs.5,000/- each, one of whom must be local, to the satisfaction of the learned Special Judge under POCSO Act, Mathabhanga, Cooch Behar;
- ii) The petitioner shall make himself available on each and every date so fixed by the trial Court;
- iii) The petitioner shall not tamper with the evidence already

collected during investigation and shall not intimidate the witnesses in any manner whatsoever;

- iv) Failure to attend the Court on a solitary day without any justifiable reason shall disentitle the petitioner the privilege of bail and expose himself to be apprehended with the leave of the Court below.

The application being **CRM 499 of 2021** accordingly **disposed of.**

(Harish Tandon, J.)

(Md. Nizamuddin, J.)