

08.02.2022

Sl. No. 02.

Mithun

Ct.No.42.

CRM(SB)/23/2022

(Via Video Conference)

In re: An application under Section 439 of the Code of Criminal Procedure, 1973 in connection with order dated 18.12.2021 passed by the learned Additional District & Sessions Judge, 1st Court(I/C), Kakdwip, South 24 Parganas, thereby rejecting the prayer for bail of the petitioner in connection with Harwood Point Coastal Police Station Case No: 379 dated 07/11/2021 under Section 8 of Protection of Children from Sexual Offences Act, 2012 (POCSO Act) (corresponding to Special POCSO Case No.53 of 2021).

In the matter of : **Soumen Biswas @ Litan Biswas.**

...Petitioner.

Mr. Ayan Basu, Adv.
Mr. Sabbir Ahmed, Adv.
Mr. Gautam Banerjee, Adv.
Mr. Gaurango Kr. Das, Adv.
Mr. Sumit Routh, Adv.
Mr. Sandip Kr. Mondal, Adv.

... for the petitioner.

Mr. Partha Sarathi Mondal, Adv.
Mr. Heramba Narayan, Datta, Adv.

... for the *de-facto* complainant.

Mr. Bidyut Kumar Roy, Adv.
Ms. Rita Dutta, Adv.

...for the State.

It is submitted by the learned Advocate on behalf of the petitioner that the allegation of sexual assault upon a minor girl was made against the petitioner over family dispute. No such incident took place as alleged by the *de-facto* complainant. The FIR was lodged one day after the alleged incident. Charge-sheet has been submitted. The petitioner is in custody for about 94

days and thereafter, he should be released on bail. The learned Advocates for the State as well as *de facto* complainant have raised objection against the prayer for bail. In support of their objection they have relied on the statement of the victim girl recorded under Section 164 of the Code of Criminal Procedure.

Having heard the learned Counsels for the parties and considering the materials on record and the case diary, it is ascertained that the victim girl is aged about 13 years at the time of the alleged incident. On the date of occurrence there was a Kali Puja performed in the village. It is also ascertained from her statement recorded under Section 164 of the Code of Criminal Procedure that the victim girl used to call the accused 'Uncle'. She requested the accused whom she call uncle by village curtesy to take her by a cycle to travel. Taking advantage of her innocence, the accused forgetting his relationship with the victim, sexually assaulted her. The filing of charge-sheet emboldens the case against the accused.

Considering the nature and gravity of the offence, I am not inclined to release the accused on bail. Prayer for bail is refused. However, since the charge-sheet has been filed, the learned Special Judge, Kakdwip is specifically directed to commence trial of the case, if required virtually, so that the trial may be concluded within 6 months from the date.

Let a plain copy of this order be sent to the learned Court below for compliance.

The parties are at liberty to act on the server copy of the order.

(Bibek Chaudhuri, J.)