

25.04.2022

Court No.29
Item No.87
(Allowed)

Saswata

CRM (DB) 193 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with Murutia Police Station Case No. 196 of 2021 dated 16.09.2021 under Section 376 of the IPC and under Section 6 of the POCSO Act and Section 21 of the POCSO Act, 2021 and Section 34 of Juvenile Justice Act and Sections 506/34 of the IPC;
And

In the matter of : **Sohan Biswas**

...Petitioner

Mr. Milon Mukherjee, Sr. Adv.

Mr. Atis Kumar Biswas

Mr. Partha Sarkar

Mr. Amit Singh

Ms. Jyoti Agarwal

...For the Petitioner

Mr. Prasun Kumar Dutta

Mr. Santanu Deb Roy

...For the State.

Ms. Zothapri Varte

Mr. Rameshwar Sinha

... For the de facto

The petitioner prays for bail.

Learned senior advocate appearing for the petitioner submits that the petitioner was falsely implicated. He refers to the complaint lodged. He submits that the complaint was lodged 6 years after the incident.

He draws the attention of the Court to the fact that other co accused were enlarged on anticipatory bail. The petitioner was taken into custody since principal allegations are directed against the petitioner.

Learned senior advocate appearing for the petitioner submits that there was a strained relationship between the mother of the de facto complainant and her father.

The mother of the de facto complainant eloped with another

gentleman. The de facto complainant was then staying with her father. The father lodged proceedings for divorce. In such divorce proceedings, the de facto complainant gave evidence. He refers to the evidence of the de facto complainant recorded on March 2, 2020. He submits that the father obtained a decree of divorce. Thereafter, the de facto complainant went to reside with her mother. It is then, that the present police complaint was lodged at the instance of the mother of the de facto complainant, falsely implicating the family members of the father of the de facto complainant.

Learned advocate appearing for the State draws the attention of the Court to the statement of the victim recorded under Section 164 of the Cr.P.C.. He also refers the other materials in the case diary and opposes the prayer for grant of bail.

The police complaint was lodged 6 years after the incident. It was, in fact, lodged after the de facto complainant gave evidence in the divorce proceedings filed by the father of the de facto complainant against her mother. The de facto complainant after such evidence and after her father obtained divorce against her mother, went to live with her mother.

In such circumstances, the doubt of false implication arises.

Considering the period of detention of the petitioner and considering the gravity of the offence and the considering the delay in lodging the FIR, and considering the factual matrix as noted above, we deem it appropriate to grant bail to the petitioner.

The prayer for bail is allowed.

Accordingly, we direct that, the petitioner shall be released on bail upon furnishing a bond of ₹10,000/- (Rupees Ten Thousand only) with

two sureties of like amount each, to the satisfaction of the **Learned Judge (under the POCSO Act), Special Court, Tehatta, Nadia** subject to the condition that during bail he shall appear before the learned Trial Court on the date fixed till disposal of the trial and he shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to comply with the condition as enshrined hereinbefore, it is open to the Trial Court to cancel the bail without any further reference to this Court.

The application for bail being CRM (DB) 193 of 2022 is, thus, disposed of.

(Debangsu Basak, J.)

(Bibahas Ranjan De, J.)