

CRM(DB) No.240 of 2022

Via video conference

04.03.22

(S.R.)

Sl.35

Ct.32

Allowed

In re: An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with **Dholahat** Police Station Case No.446 of 2021 dated 19/11/2021 under Sections 363/365 of the Indian Penal Code adding Section 376 of the Indian Penal Code and Section 6 of the POCSO Act subsequently charge sheet has been submitted under Sections 363/365/376 of the Indian Penal Code and under Section 6 of the POCSO Act (corresponding to Special POCSO Case No.69 of 2021);

And

In re: Sudam Ghorami @ Sudam Gharami ... petitioner.

Mr. Ayan Basu

Mr. Sandip Kumar Mondal

Mr. Sumit Routh

... for the petitioner.

Mr. Tanmoy Kr. Ghosh

Mr. Arindam Sen

...for the State.

Mr. Basu, learned advocate appearing for the petitioner submits that there was a consensual relationship between the petitioner and the victim. Both of them wanted to marry each other but the petitioner did not agree to such marriage proposal since the victim was a minor at that juncture. Such free mixing amongst them was not actuate with any dishonest intention. Upon completion of investigation charge sheet has already been submitted and as such, further detention of the petitioner, who is in custody for about 100 days, may not be necessary and he may be enlarged on bail on any stringent condition.

Mr. Ghosh, learned advocate appearing for the State, however, opposes the petitioner's prayer and submits that the victim was a student of Class-X at the time of the alleged incident. There are incriminating materials on record against the petitioner. In support of such contention, he has drawn our attention to the statements of the victim girl, as recorded under Sections 161 and 164 of the Code as well

as the injury report.

Heard the learned advocates appearing for the respective parties.

Prima facie, there are inconsistencies between the statements of the victim girl, as recorded under Section 161 and under Section 164 of the Code. The offence alleged, *prima facie*, also do not stand corroborated by the injury report. Considering the nature of accusations, the period of detention already suffered by the petitioner and the possible extent of his complicity in the alleged offence, we are of the opinion that his further detention is not necessary, more so when upon completion of investigation charge sheet has been submitted. However, his movement needs to be restricted.

Accordingly, the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the Learned Additional Sessions Judge, 1st Court, Special Court under POCSO Act, Kakdwip, South 24-Parganas with a further condition that the petitioner shall not enter the jurisdiction of Dholahat Police Station until further orders and shall attend the Learned Trial Court on all the dates, as specified for hearing.

It is further directed that the petitioner shall not intimidate the witnesses or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioner fails to comply with the aforesaid directions without any justifiable cause, the Learned Trial Court would be at liberty to cancel the petitioner's bail without any further reference to this Court.

The application for bail being CRM(DB) No.240 of 2022 is, accordingly, disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Sugato Majumdar, J.)

(Tapabrata Chakraborty, J.)