

07.03.2022

Court No.32
rpan / **14**

CRM (DB) 244 of 2022

In Re.: An application for bail under section 439 of the Code of Criminal Procedure ;

and

In Re. : **Sibu Roy @ Shibu Roy**

- Petitioner.

Mr. Niladri Sekhar Ghosh,

Ms. Sompurna Chatterjee

... for the Petitioner.

Mr. Debabrata Chatterjee,

Ms. Debjani Sahu

... for the State.

The present application for bail under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Goghat Police Station Case No.302 of 2021 dated 31.10.2021 under Sections 363/365 of the Indian Penal Code, 1860 adding Section 6(1) of the Protection of Children from Sexual Offences Act and Section 9 of the Child Marriage Act.

Mr. Ghosh, learned advocate appearing for the petitioner submits that there was a consensual relationship between the petitioner and the victim girl, who left her residence and accompanied the petitioner willingly. There was no inducement on the part of the petitioner and he has been falsely implicated. He has already suffered incarceration for about 109 days. Upon completion of investigation charge sheet has also been submitted and as such, his further detention may not be necessary and he may be enlarged on bail on any stringent condition.

Mr. Chatterjee, learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to the statement of the victim girl, as recorded under Section 164 of the

Code as well as the medical reports. He further submits that the victim was minor on the date of the alleged incident and there are strong incriminating materials on record against the petitioner and as such, he is not entitled to the relief as prayed for.

Heard the learned advocates and considered the materials in the case diary.

Prima facie, it appears that there was a consensual relationship between the petitioner and the victim girl. Such fact stands reflected in the statement of the victim girl herself, as recorded under Section 164 of the Code. Upon completion of investigation charge sheet has already been submitted as such, we are of the opinion that further detention of the petitioner, who has already suffered incarceration for about 109 days, is not warranted. However, his movement needs to be restricted.

Accordingly, we allow this application and direct that the petitioner, namely, **Sibu Roy @ Shibu Roy**, 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 a local, to the satisfaction of the learned Judge, Special Court, POCSO Act, Arambagh, Hooghly with a further condition that he shall not enter the jurisdiction of Goghat Police Station until further orders and he shall also intimate the address where he would be residing to the Officer-in-Charge of Goghat Police Station immediately.

It is further directed that the petitioner shall attend the learned court below on all the dates specified for hearing and shall not tamper with the evidence and/or intimidate the witnesses in any manner whatsoever.

In the event the petitioner fails to comply with the aforesaid directions, without any justifiable cause, the learned court below shall be at liberty to cancel his bail, in accordance with law, without further reference to this Court.

With the aforesaid observations, the application for bail, being CRM (DB) 244 of 2022 is 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.)