

Via video conference

11.03.22

(S.R.)

Sl.15

Ct.32

Allowed

In re: An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with **Mejia** Police Station Case No.127 of 2021 dated 06/11/2021 under Sections 447/448 of the Indian Penal Code and Section 8 of POCSO Act and after filing of charge sheet No.132 of 2021 dated 13/12/2021 under Sections 448/376(3) of the Indian Penal Code and Section 4 of the POCSO Act;

And

In re: Sudev @ Natu Datta

... petitioner.

Mr. Samiran Mandal

Mr. Abhinaba Das

... for the petitioner.

Mr. Saswata Gopal Mukherji, Ld.PP

Mr. Partha Pratim Das

Ms. Pritha Paul

... for the State.

Mr. Mandal, learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated. Initially, the complaint was registered under Sections 447 and 448 of Indian Penal Code and Section 8 of Protection of Children from Sexual Offences Act. However, charge sheet was submitted under Sections 448 and 376(3) of Indian Penal Code and Section 4 of Protection of Children from Sexual Offences Act. As charge sheet has already been submitted further detention of the petitioner, who has already suffered incarceration for about 124 days, may not be necessary and he may be enlarged on bail on any stringent condition.

Mr. Das, 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 statements of other witnesses, as recorded under Section 161 of the Code and the medical report.

Heard the learned advocates appearing for the respective parties.

Prima facie, there are inconsistencies between the contents of the complaint, which was lodged by the victim girl and her statement, as recorded under Section 164 of the Code. The statements of other witnesses, as recorded under Section 161 are also not consistent with the contents of the complaint. In view thereof, considering the nature of accusations and the period of detention suffered by the petitioner, 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 Judge, Special Court under Protection of Children from Sexual Offences Act, Bankura with a further condition that the petitioner shall not enter the jurisdiction of Mejia Police Station until further orders and shall intimate the address where he would be residing to the Officer-in-Charge of Mejia Police Station.

It is further directed that the petitioner shall not intimidate the witnesses or tamper with evidence in any manner whatsoever and shall attend the Learned Trial Court on all the dates, as specified for hearing.

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.252 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.)