

Via video conference

07.03.22

(S.R.)

Sl.28

Ct.32

Allowed

In re: An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with **Sonarpur** Police Station Case No.962 dated 16/11/2021 under Sections 363/365 of the Indian Penal Code read with Section 6 of the POCSO Act;

And

In re: Prasenjit Kalsa

... petitioner.

Mr. Navanil De

Ms. Ayantika Roy

Mr. Rajeshwar Chakraborty

Mr. Subhrajit Dey

... for the petitioner.

Mr. Tanmoy Kr. Ghosh, Ld. Sr. GA

Ms. Sonali Bhar

...for the State.

Mr. De, learned lawyer appearing for the petitioner submitted that the present petitioner is falsely implicated without any material basis. The victim had a love affair with the present petitioner and no allegation is there that the present petitioner committed any alleged act. The petitioner is in custody for about 93 days. Further custodial detention is not necessary, as charge sheet has been submitted on completion of the investigation. Accordingly, he prayed for bail on any stringent condition.

Mr. Ghosh, learned lawyer appearing for the State invited our attention to various statements of the victim girl and opposed the bail on the ground that the allegation is very grave and serious. He further submitted that the victim was recovered from the house of the present petitioner, which shows that the present petitioner has direct complicity in the alleged offence.

We have perused the case diary and other materials and heard the learned Lawyers for the petitioner as well as the State. The victim girl in her statement recorded under Section 161 of the Code of

Criminal Procedure stated that she had a love affair with the present petitioner for which she left her parental home and began to live in the petitioner's residence. She refused medical examination. The statement of the victim has also been recorded under Section 164 of the Code of Criminal Procedure, where she stated that on being chastised by the parents, she left home and lived some days in her maternal aunt's home wherefrom she was recovered. Seizure Memo shows that the victim was recovered from the residence of the present petitioner, as pointed out by the Learned Lawyer appearing for the State. We thus observe inconsistencies in the statement of the victim girl which go to the root of the case. On perusal of the case diary and other materials, considering the contradictory nature of statements of the victim and further considering the fact that the petitioner is in custody for about 93 days, we are inclined to allow bail to the present petitioner since custodial detention for interrogation in post investigation period is not warranted.

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 POCSO Act, Baruipur, Sought 24-Parganas with a further condition that the petitioner 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.275 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.)