

14.03.2022
Court No.32
Item No. 26
Avijit Mitra

C.R.M. (DB) No.327 of 2022

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

And

In Re : Mintu Ghosh

Petitioner

Mr. Samiran Mondal,
Mr. Abhinaba Dan,
Mr. Nitish Samanta

For the petitioner

Mr. Sudip Ghosh,
Mr. Apurba Kumar Datta,
Mr. Bitasok Banerjee

For the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Beliatore Police Station Case No.32 of 2021 dated 25.05.2021 under sections 376(2)(f)(n)/376DA of the Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offences Act and Sections 67(A) and 67(B) of the Information and Technology Act.

Mr. Mondal, learned advocate appearing for the petitioner submits that the petitioner is renewing his prayer for bail as the examination report filed on behalf of the Central Forensic Laboratory Report was not available on the date of earlier refusal of his prayer for bail.

He further submits that the allegation against the present petitioner was that he had taken photographs but the Central Forensic Science Laboratory Report would reveal that no sexual contents, pictures and videos were retrieved from the mobile.

Upon completion of investigation chargesheet has already been submitted and as such further detention of the petitioner, who is in custody for about 294 days, may not be necessary and he may be granted bail on any stringent condition.

Mr. Banerjee, learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to the statement of the victim as recorded under Section 164 of the Code and other documents in the case diary.

Heard the learned advocates appearing for the respective parties and considered the materials in the case diary.

It appears that the CFSL report was issued prior to rejection of the petitioner's prayer for bail on 20th December, 2021. Considering the manner in which the offence has taken place and since we do not find any substantial change in the circumstances, subsequent to rejection of the petitioner's earlier prayer for bail, we are not inclined to exercise any discretion in favour of the petitioner and his prayer for bail is refused, at this stage.

Accordingly, the application for bail, being CRM (DB) No.327 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)