

28.03.2022
Sl. 58, 71 &
72
Court No.29
(sourav)
(Partly
Allowed)

CRM 8511 of 2021
With
CRM (DB) 435 of 2022
With
CRM (DB) 606 of 2022

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with **Bankura** Police Station Case No. **147** of **2021** dated **18.07.2021** under Sections **370(5)(7)/372/373/120B** of the Indian Penal Code read with Sections **15/80/81** of the Juvenile Justice (Care and Protection) Act, 2015.

And

In the matter of: **Bikash Kumar Gupta & Ors.**

....petitioners.

Mr. Milon Mukherjee, Sr. Adv.
Mr. Smartajit Sarkar,

...for the petitioner in
CRM 8511 of 2021.

Mr. Kamal Das,
Mr. Sheo Shankar

...for the petitioner in
CRM (DB) 435 of 2022

Mr. Sekhar Basu, Sr. Adv.
Mr. Kamal Das,

...for the petitioner in
CRM (DB) 606 of 2022

Mr. Madhusudan Sur, Ld. APP,
Mr. Dipankar Paramanick,

... for the State In CRM
8511 of 2021 and
CRM (DB) 606 of 2022.

Mr. Rudradipta Nandy,

...for the State in
CRM (DB) 435 of 2022

Three applications for bail are taken up for analogous hearing as they emanate out of the same police case.

Learned senior advocate appearing for the first petitioner in **CRM 8511 of 2021** (hereinafter referred to as the first petition, for the sake of convenience) submits that the first petitioner is in custody for 251 days. It is alleged as against the first petitioner that the first petitioner acted as a witness to a

deed of adoption. The first petitioner was falsely implicated.

Learned advocate appearing for the State in the first petition submits that the first petitioner is a signatory to the deed of adoption. The first petitioner is a part of racket involving trafficking of children. He opposes the prayer for bail.

Learned advocate appearing for the second petitioner in **CRM (DB) 435 of 2022** (hereinafter referred to as a second petition, for the sake of convenience) submits that the second petitioner is in custody for 251 days. The second petitioner is the uncle of the natural mother of the children. The natural mother was enlarged on bail by the jurisdictional Court. The second petitioner was also a signatory to the deed of adoption. He claims that the child was given in adoption after Hindu rites in respect thereof being performed at the temple.

Learned advocate appearing for the State in the second petition submits that the second petitioner is involved in the racket of child trafficking. He draws the attention of the Court to the materials in the case diary.

Learned senior advocate appearing for the third petitioner in **CRM (DB) 606 of 2022** (hereinafter referred to as the third petition, for the sake of convenience) submits that the third petitioner is in custody for 250 days. The third petitioner is a teacher of an educational institution. The third petitioner took the child on adoption. He submits that the formal deed of adoption could not be executed, although prepared and made ready, due to the intervening COVID situation. He submits that the biological mother of the child along with another person

were granted bail by the jurisdictional Court. The police filed charge-sheet and, therefore, further detention of the third petitioner is not required.

Learned advocate appearing for the State in the third petition submits that the third petitioner and one Kamal Rajoria were involved in the child trafficking. He submits that the Kamal Rajoria runs a boarding school where the children were kept. The educational institution does not possess requisite permission to give any child on adoption. He refers to the statement of one of the victims recorded under Section 164 of the Criminal Procedure Code. He refers to the seizures made from the petitioner in the third petition along with seizure made from Kamal Rajoria. He submits that in aggregate three children were recovered from these two persons. He refers to a statement of an eyewitness recorded under Section 16 of the Criminal Procedure Code. He contends that the petitioners of the three petitions are deliberately not allowing the Court to frame the charges. He refers to the orders of the jurisdictional Court in this regard.

The petitioners in the first and the second petition are witnesses to a deed of adoption relating to a child.

The first and the second petitioners, therefore, stand on a different footing as that of the petitioner in the third petition and Kamal Rajoria.

There are statements recorded by the two other co-accused who were enlarged on bail by the jurisdictional Court one of them being the mother of the children. Both such co-

accused alleged that one of the child was ultimately made over to the petitioner of the third petition through the petitioner of the second petition and the first petition.

In the facts of the present case, the police filed charge-sheet. Two other co-accused one being the mother of the children are on bail.

In such circumstances, we deem it appropriate to enlarge the petitioner of the first petition and the second petition on bail subject to them appearing before the trial court on every date of hearing including on the date of framing of charges without fail. In the event of default of their physical presence on any of the dates including the date of framing of charge, the Court in seisin of the case will be at liberty to cancel the bail in favour of such persons without any reference to this Court.

So far as the third petitioner is concerned, since the child was recovered from her possession and considering the gravity of the offence and the involvement of the petitioner therein as transpiring from the materials in the case diary and considering the fact that there is hardly any material change in circumstances subsequent to the earlier order of rejection, we are unable to grant bail to the petitioner of the third petition.

Accordingly, the petitioners in **CRM 8511 of 2021** and **CRM (DB) 435 of 2022** be released on bail upon furnishing a Bond of Rs. 10,000/- each with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Bankura, subject to the condition that during bail they shall appear before the learned

trial court on every date of hearing and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event the petitioners fails to comply with the conditions as enshrined hereinbefore, it is open to the trial court to cancel the bail without any further reference to this Court.

The applications for bail being **CRM 8511 of 2021 and CRM (DB) 435 of 2022** is, thus, disposed of and **CRM (DB) 606 of 2022** is dismissed.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)

