

08.03.2022

Sl. No. 05

Srimanta

Ct.No.42

CRM(SB)/36/2022

(Via Video Conference)

In Re : An application for bail under Section **439** of the Code of Criminal Procedure, 1973 in connection with **Tehatta** Police Station Case No. **700/2021** dated **26.12.2021** under Sections **363** of the Indian Penal Code and **10** of the POCSO Act.

In the matter of : **Budu Roy @ Buddhadeb Roy**

...appellant.

Mr. Koustav Bagchi, Adv.,
Mr. Amanul Islam, Adv.,
Mr. Sourav Mukherjee, Adv.,
Mr. Debayan Ghosh, Adv.

...for the appellant.

Mr. Zareen N. Khan, Adv.,
Mr. Ashok Das, Adv.

...for the State.

The accused is in custody for 71 days. Charge-sheet has been submitted against him under Section 363 of the Indian Penal Code read with Section 10 of the POCSO Act.

It is found from the FIR that the accused allegedly took a minor daughter of the *de facto* complainant inside a garden. The said minor child suddenly started screaming and hearing her cry one Raj Biswas saw the accused forcibly pulling the hand of the victim. At the intervention of the said Raj, the victim was recovered. I have also perused the statement of the said Raj Biswas recorded by the Investigating officer under Section 161 of the Code of Criminal Procedure. He corroborated the FIR story. Even if the statement made in the FIR is, *prima facie*, believed to be true, ingredients of

offence under Section 10 of the POCSO Act does not appear to be found from the record.

Though the Learned Public Prosecutor-in-Charge has raised serious objection against the prayer for bail, considering the materials in Case Diary and in view of the fact that the charge-sheet has already been submitted and this case is not such where custody trial of the accused is necessary, I am inclined to release the petitioner on bail.

The petitioner may find bail of Rs.10,000/-(Rupees Ten Thousand) with one surety of like amount to the satisfaction of the Learned Special Judge, Tehatta, Nadia on further condition that if on bail he must attend the Learned Court below on each and every date of hearing fixed by the Learned Court below and he will not induce, influence or threaten the witnesses in any manner during trial of the case.

It is made clear that the observation made hereinabove is only for the purpose of adjudicating the instant application under Section 439 of the Code and the Learned Trial Judge is at liberty to try the case on the basis of the evidence on record without being influenced in any manner with the observation made hereinabove by this Court.

(Bibek Chaudhuri, J.)