

16.03.2022
Item No.05
Suman
Ct.42

(Via Video Conference)

CRM (SB) 42 of 2022

In Re: An application under Section 439 of the Code of Criminal Procedure.

And

In the matter of: **Swapan Paul**
Vs.
The State of West Bengal

Mr. Subhasish Pachhal
...for the petitioner

Mr. Bidyut Kumar Roy
Ms. Soma Biswas
...for the State

The accused is in custody for 20 days. From the complaint submitted by one Aparna Bhadra on 3rd February, 2022 in the local P.S. it is ascertained that on 2nd February, 2022 when she and her minor daughter were going through the road, one Sambhu Koley abused her with filthy language. It is also alleged that they were abused saying that the de facto complainant and her daughter belong to a low caste. When Sambhu Koley was shouting and abusing the de facto complainant and her minor daughter, the petitioner being a neighbour also joined Sambhu Koley and started shouting.

No allegation of abuse saying that the de facto complainant and her daughter are of low caste is attributed to the present petitioner. Moreover, it is the consistent view of the Apex Court in various decisions that abusing a person saying a man of low caste does not attract the penal provision of Section 3(1)(R) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 2015.

I also do not find any allegation of Section 12 of the POCSO Act against the present petitioner. Therefore, the prayer for bail is allowed.

The petitioner may find bail of Rs.10,000/- with one surety of like amount to the satisfaction of the learned Special Court under the POCSO Act, Howrah.

The application is, thus, disposed of.

(Bibek Chaudhuri, J.)