

23.03.2022
Item No.03
Suman
Ct.42

(Via Video Conference)

CRM (SB) 46 of 2022

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

And

In the matter of: **Almin Sk @ Alamin Sk @ Ailiman
Sk.**
Vs.
The State of West Bengal

Mr. Sayan De
Ms. Esha Acharya
Mr. Kaustav Shome
Mr. Sayan Kanjilal

...for the petitioner

Mr. Prasun Kumar Dutta
Mr. Pratick Bose

...for the State

In the instant matter Mr. Bidyut Kumar Roy, learned
advocate is entrusted on behalf of the State to represent.
However, when the matter is called on, Mr. Bidyut Kumar
Roy, learned advocate remains absent. It is the
experience of the Court that in most of the matters Mr.
Roy remains absent when the matter is called on for
hearing. The matter is brought to the notice of the
learned Public Prosecutor, High Court, Calcutta with a
request to see that some responsible advocates from the
panel ought to be entrusted to defend the cases on

behalf of the State specially in respect of the application for bail.

Mr. Prasun Kumar Dutta, learned APP is present in Court. He is entrusted to assist the Court on behalf of the State Respondent.

The appointment of Mr. Dutta along with Mr. Pratick Bose be regularized.

This is an application for bail filed by the accused /petitioner. It is submitted on behalf of the accused that he is in custody for 236 days on the allegation that he committed offence under Sections 354/354A/506 of the Indian Penal Code read with Sections 8 and 12 of the Protection of Children from Sexual Offences Act.

The F.I.R. story runs thus:-

The victim and her elder sister and younger brother were sleeping inside a room. The parents of the victim were sleeping on the veranda outside the room. At 1 o'clock at night the petitioner illegally entered into the room and caught hold of the victim while she was sleeping. It is stated by the victim that she has not attained the age of majority.

Learned advocate for the petitioner submits before me that in the instant case charge sheet has been submitted. Therefore, it is not necessary to detain the accused for the purpose of investigation. It is further submitted by him that the petitioner has collected the birth certificate

of the victim. The said document suggests that at the time of commission of alleged offence the victim was more than 18 years. Therefore, prima facie the penal provisions of Sections 8 and 12 of the POCSO Act do not lie.

Mr. Dutta, learned APP has raised objection against the prayer for bail.

However, considering the nature and gravity of the allegation this Court is of the view that custodial trial is not necessary in the instant case. Accordingly, the petitioner is enlarged on bail of Rs. 10,000/- with one surety of like amount to the satisfaction of the learned Special Judge, POCSO, Ranaghat, Nadia with further condition that if on bail the petitioner shall not influence or threaten the witnesses on behalf of the prosecution and shall attend the trial Court on all dates of hearing, failing which the order of bail shall be cancelled without further reference to this Bench.

The application is, thus, disposed of.

(Bibek Chaudhuri, J.)

