

18.04.2022

Sl. No. 04.

Mithun.

Ct.No.42.

CRM(SB)/65/2022

(Via Video Conference)

Siraj Ansari @ Raj Ansari @ Chingri

Vs.

The State of West Bengal

In re: An application for bail under Section 439 of the Code of Criminal Procedure, 1973, an order dated 22.03.2022 passed by the Learned Judge, Special Court under Protection of Children from Sexual Offences Act cum Learned Court of Additional Sessions' Judge, 2nd Court, Howrah in connection with Special T.R.Case No.11 of 2022 arising out of Sankrail Police Station Case No.90 of 2022 dated 20.01.2022 under Sections 341/325/354B/506/34 of the Indian Penal Code read with Section 8 of the Protection of Children from Sexual Offences Act thereby rejecting the prayer for bail of your petitioner.

Mr. Mrityunjoy Chatterjee, Adv.
Mr. Susnigdho Battacharyya, Adv.

...for the petitioner .

Mr. Debabrata Chatterjee, APP,
Mr. Santanu Chatterjee, Adv.

... for the State.

Having heard the learned Advocate for the petitioner and the State of West Bengal and on careful perusal of the documents annexed with the instant application as well as the case diary it appears that there is existence of case and counter case where both the groups, the *de facto* complainant and his family members and others in one side and the accused persons on the other hand were involved in mutual fighting and some persons of both groups were assaulted.

Coming to the instant case, it is ascertained that the *de facto* complainant who is the victim of this case is a minor. Specific allegation has been made against the present accused that he slapped the *de facto* complainant and pressed her breast. The *de facto* complainant narrated the same incident before the learned Magistrate, which was recorded under Section 164 of the Code of Criminal Procedure. The witnesses also corroborated the statement of the *de facto* complainant. The learned advocate for the petitioner submits that the incident took place on 17th January, 2022 but the FIR was registered on 20th January, 2022. Due to the delay of lodging FIR, concoction may occur specially when counter case is in existence between the same parties.

Though the *de facto* complainant has alleged that she was subjected to an offence under Section 8 of the POCSO Act, it is found from the Medical Report that the Medical Officer did not find any injury on or around the breast of the *de facto* complainant as well as other parts of the body.

Considering such aspect of the matter I am inclined to release the petitioner on bail. The petitioner may be enlarged on bail of Rs.20,000/- with two sureties of like amount to the satisfaction of the learned Additional Sessions Judge, 2nd Court at Howrah, being the Special Judge under the POCSO Act with further conditions that if on bail, the petitioner shall meet the Investigating Officer once in a fortnight and shall submit an affidavit, stating residential address, mobile number and Aadhar Card number, if any.

If the petitioner violates any of such conditions, the order of bail shall be cancelled without further reference to this Bench.

(Bibek Chaudhuri, J.)