

11.05.2022

Serial no. 38

[Dd]

(Bail **allowed**)

CRM (DB) 1234 of 2022

In re : An Application for **Bail** under Section **439** of the Code of Criminal Procedure in connection with POCSO Case No. **07 of 2022** arose out of **Itahar** Police Station Case No. **56** of **2022** dated **30.01.2022** under Sections **363/365/376** of the Indian Penal Code and Section **6** of the Protection of Children from Sexual Offences Act.

-And-

In the matter of : Sagar Ali @ Sagger Ali

... .. Petitioner

Mr. Milon Mukherjee, Id. Sr. Adv.

Mr. Dattatreya Dutta, Advocates

... .. For the Petitioner

Ms. Zareen N. Khan,

Mr. Ashok Das, Advocates

... ..For the State

Petitioner seeks bail.

Learned senior advocate appearing for the petitioner submits that the petitioner was falsely implicated. There was a previous complaint as against the petitioner lodged by the de facto complainant, *inter alia*, under Sections 363/365 of the Indian Penal Code. In such police complaint, the victim girl recorded a statement under Section 164 of the Criminal Procedure Code on October 30, 2021. She claimed that she went voluntarily to her maternal aunt's place. Consequent upon such statement the petitioner was granted bail in such police case. The victim was at the home. Thereafter, the de facto complainant lodged the present police complaint on January 30, 2022 falsely implicating the petitioner in the present police case. Now the provisions of the POCSO Act were also added. He submits that the

petitioner is in custody for 101 days. The police filed charge sheet. Therefore, further detention of the petitioner is not required.

Learned advocate appearing for the State draws the attention of the Court to the materials in the case diary including the statement of the victim recorded under Section 164 of the Criminal Procedure Code in the present police case. She submits that neighbours of both the victim as also of the petitioner recorded statements under Section 161 of the Criminal Procedure Code, where they claimed that there was a relationship between the petitioner and the victim.

Learned senior advocate for the petitioner submits that the victim got married to a different person after the lodgment of the present police complaint.

Considering the period of detention of the petitioner and considering the materials in the case diary and considering the fact that police filed charge sheet, we are inclined to grant bail to the petitioner.

Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs. 10,000/- (Rupees Ten Thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the **Learned Judge, Special Court under POCSO Act, Raiganj, Uttar Dinajpur** subject to condition that the petitioner shall appear before the learned trial court on every date of hearing until further orders and shall not intimidate witnesses and/or tamper with evidence in any manner whatsoever.

In the event, the petitioner fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel the bail of the petitioner in accordance with law without further reference to this Court.

The prayer for bail of the petitioner is **allowed**.

CRM (DB) 1234 of 2022 is **disposed of**.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)