

22.06.2022
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allowed

CRM(DB) 1399 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Ashoknagar Police Station Case No. 400 of 2020 dated 12.06.2020 under Sections 376AB/506/109 of the Indian Penal Code and Sections 6/17 of the POCSO Act.

And

In Re : Lakshi Biswas @ Laxmi Biswas petitioner

Mr. Partha Pratim Das

.....for the petitioner

Mr. Bidyut Kumar Roy

Ms. Rita Datta

..... for the State

Learned Counsel appearing for the petitioner submits that the petitioner is not the principal accused. She is not named in the F.I.R. She is in custody for 75 days.

Learned Counsel appearing for the State opposes the prayer for bail. Report is filed on behalf of the State.

It appears from the report that the victim, a nine year old girl, is residing with her mother at the rented house of Kanak Debnath of Guma Rabindrapally, P.O. – Guma, P.S. – Ashoknagara, Dist. – North 24 Parganas.

We have considered the materials on record. Petitioner does not appear to be the principal accused. In view of extent of complicity of the petitioner in the alleged crime and the period of detention suffered by her, 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, Barasat, North 24 Parganas, subject to the 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 application for bail is, accordingly, allowed.

In the course of consideration of the bail application, we find investigating officer was not even aware of the whereabouts of the vital witness i.e. minor victim. This approach of the investigating officer is contrary to the interest of the justice and the rights of the victim for protection and support.

Additional Superintendent of Police of the area concerned shall take necessary steps and ensure due protection and support to the minor victim.

Copy of the order be sent to the superior officer concerned for due compliance.

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)

