

17.06.2022
Sl. No.39
akd
[Rejected]

C. R. M. (DB) 1795 of 2022

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 13.06.2022 in connection with Howrah (Women) Police Station Case No. 31 of 2021 dated 20.11.2021 under Sections 6/17 of the POCSO Act read with Sections 420/406/409/120B/34 of the Indian Penal Code and Sections 75/87 of the Juvenile Justice (Care and Protection of Children) Rule.

And

In Re: **Sumit Adhikari**

... .. Petitioner

Mr. Kishore Dutta .. Sr. Advocate
Mr. Sourav Chatterjee
Mr. Rajdeep Majumder
Mr. Moyukh Mukherjee

... .. for the petitioner

Mr. Sabyasachi Banerjee
Mrs. Raya Rudra

... .. for the de-facto complainant

Mr. Rudradipta Nandy .. Ld. Addl. Public Prosecutor
Ms. Eshita Dutta

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for about 201 days. It is further submitted there is no allegation of rape levelled against him by the minor victim.

Learned Additional Public Prosecutor opposes the prayer for bail and submits petitioner is the landlord of the premises which was let out to run a children's home. He used to bring liquor and hold parties in the premises. Minor victims in the home were sexually exploited.

Learned advocate appearing for the de-facto complainant also opposes the prayer for bail and submits she is the adopted mother of the minor victim. On psychological counselling it came to light the minor had been sexually abused in the home. This prompted his client to lodge FIR.

Materials on record show a distressing state of affairs where minors kept in the safe custody of a children's home instead of being protected were exposed to an unhealthy and predatory atmosphere and sexually abused. Psychological counselling of the victim reveals severe trauma arising out of sexual abuse. The victim is a nine year old girl and her statement with regard to sexual abuse requires to be assessed in a sensitive manner in the backdrop of the opinion of the councillor and other attending circumstances. Statements collected in course of investigation show active role of the petitioner in carrying on various immoral activities in the premises where the children's home was housed. Prima facie involvement of the petitioner in the heinous crime of sexual abuse of the minor is evident in the facts of the case. In view of gravity of the offence and involvement of the petitioner therein, we are not inclined to grant bail to the petitioner at this stage.

The application for bail is thus **rejected**.

We clarify our observations are tentative and have been made for the purpose of disposal of the bail application and shall not have any bearing at any subsequent stage of the proceeding.

In view of the nature of offence which involves sexual abuse of a minor in a children's home, we direct the trial court to take prompt steps to consider the issue of framing of charge at the earliest and to conclude the trial bearing in mind the statutory mandate under Section 35 of the POCSO Act.

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)

