

06.07.2022
cm/ct 28
sl no. 24

C.R.M. (DB) 2119 of 2022

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Chinsurah Women P.S. Case No. 08 of 2022 dated 09.02.2022 under Section 376AB/376(2)(f)(n)/323/506 of the Indian Penal Code, 1860 and under sections 6/12 of the Protection of Children From Sexual Offences Act.

Allowed

In Re : Amarnath Dutta

..... petitioner

Mr. Sourav Chatterjee
Mr. Shiladitya Banerjee
Mr. Arnab Chatterjee

..... for the petitioner

Ms. Faria Hossain
Mr. Anand Keswari

..... for the State

Mr. Tapas Kumar Ghosh
Mr. Tanmay Chowdhury

.... for the De-facto complainant.

Petitioner is in custody for 147 days. It is submitted that there is a matrimonial dispute between the petitioner and the de-facto complainant wife. De-facto complainant wife has developed an illicit relation with a neighbour. Petitioner lodged a criminal case against his wife and her paramour. In retaliation, de-facto complainant wife lodged a criminal case alleging cruelty against him and he was arrested. Subsequently, another criminal case for molesting the daughter of the paramour was also registered wherein petitioner was arrested. On the day he was released on bail, the present case has been registered. He prays for bail.

Learned lawyer for the State opposes the prayer for bail. She refers to the statement of the victim recorded under Section 164 Cr. P.C.

Learned lawyer for the de-facto complainant-wife also opposes the prayer for bail. He submits that petitioner is a tantrik

and resorts to pervert activities. He is a serial molester and is threatening witnesses.

We have considered the materials on record. A matrimonial dispute is pending between the petitioner and the de-facto complainant wife. Criminal cases were registered by and between the parties. Custody proceeding is also pending with regard to the minor child. Petitioner was arrested in an earlier case alleging cruelty. Immediately, thereafter he was arrested in another case on the allegation of having molestation the daughter of a neighbor who is alleged to be the paramour of the de-facto complainant-wife. Thereafter, the present case has been instituted.

We have gone through the materials on record including the statement of the victim girl. Although, it is alleged in the First Information Report the de-facto complainant subjected the minor child to penetrative sexual assault on various occasions between 21.12.2021 and 26.12.2021, it is relevant to note matrimonial dispute had broken out by them, and a criminal case had been registered by the petitioner against the de-facto complainant and the neighbor in October, 2021. In the backdrop of such hostile setting, whether the petitioner had exclusive access to the minor to commit the crime requires to be assessed during trial. It is also relevant to note there is no allegation with regard to molestation in the earlier First Information Report lodged by the de-facto complainant alleging cruelty. Though it is strenuously argued that the child came out with the incident only on 08.02.2022, such fact requires to be assessed in the background of hostile relationship between the parties which may prompt false implication. However, concern of the de-facto complainant with regard to apprehension of

threat or intimidation at the behest of the petitioner also requires to be addressed.

Under such circumstances, we are of the opinion though further detention of the petitioner in custody may not necessary, his movement requires to be restricted in order to instill confidence in the mind of the de-facto complainant and the minor child.

Accordingly, the petitioner be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court, under P.O.C.S.O. Act on further condition that while on bail petitioner shall not enter the jurisdiction of chandannagar police station and shall report to the concerned officer-in-charge within whose jurisdiction he shall reside while on bail once in a week until further orders and shall provide the address where he shall presently reside to the investigating officer as well as court below. The petitioner shall appear before the trial court on every date of hearing and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

The application being CRM(DB) No. 2119 of 2022 is disposed of.

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)