

26.07.2022
SI. No.32
akd
[ALLOWED]

C. R. M. (DB) 2457 of 2022

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 19.07.2022 in connection with Narendrapur Police Station Case No. 624 of 2022 dated 07.06.2022 under Section 376(2)(f)(3) of the Indian Penal Code and Section 6 of the POCSO Act.

And

In Re: ***Pintu Mahammed Paik***

... .. Petitioner

Mr. Angshuman Chakraborty
Mr. Shashanka Sekhar Saha

... .. for the petitioner

Mr. Moyukh Mukherjee
Ms. Shyanti Poddar
Mr. Abhijit Singh
Mr. Sahidur Rahaman

... .. for the de-facto complainant

Ms. Zareen N. Khan
Mr. Ashok Das

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for about 51 days. It is further submitted there was a matrimonial dispute between the petitioner and the de-facto complainant i.e. mother of the minor victim. A proceeding under Section 125 of the Code of Criminal Procedure was instituted in 2020 and notice of divorce was served in November, 2020. Subsequently, the petitioner has been falsely implicated in the instant case.

Learned advocate appearing for the State opposes the prayer for bail and submits the de-facto complainant was tortured and she took refuge at her parental home. Thereafter, the minor children were taken away by the petitioner and the minor daughter was sexually abused. She made statement in presence of her relations and neighbours implicating her father.

Learned advocate appearing for the de-facto complainant also opposes the prayer for bail and submits that the minor had been sexually abused by her father.

We have considered the materials on record including the statement of the minor. She stated her mother had separated from her father in 2019. Few days later her father came, physically assaulted her mother and took them away. No General Diary alleging forcible removal of the minor from the custody of the mother is placed on record. On the other hand, in 2020 the de-facto complainant mother filed proceeding under Section 125 of the Code of Criminal Procedure seeking maintenance for herself and the minor daughter. Judged from this background, possibility of tutoring the minor to make statement against her father cannot be wholly ruled out. Petitioner is in detention for about 51 days and his further detention for progress of investigation is not necessary. Under such circumstances, we are of the opinion petitioner may be enlarged on bail.

Therefore, the accused/petitioner, namely ***Pintu Mahammed Paik***, 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 the POCSO Act, Baruipur, South 24-Parganas subject to condition that the said petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever or commit similar offences in future.

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 for bail, thus, stands **allowed**.

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)