

28.07.2022

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rejected

C.R.M. (DB) No. 2464 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Narendrapur Police Station Case No. 392 dated 24.04.2022 under Sections 376(2)(i)/(3) of the Indian Penal Code and Section 6 of POCSO Act subsequently charge-sheet submitted under Sections 376(2)(i)/(3) of the Indian Penal Code and Section 6 of POCSO Act.

And

In Re : Sudha Dhara petitioner

Mr. Ayan Basu
Mr. Sandip Kumar Mondal
Mr. Sumit Routh

... for the petitioner

Ms. Faria Hossain
Mr. Anand Keshari

... for the State

Learned Counsel appearing for the petitioner submits that the petitioner is in custody for 95 days. An earlier case was registered against his brother wherein the witnesses have not supported the allegation of sexual assault. Accordingly, he prays for bail.

Learned Counsel appearing for the State opposes the prayer for bail.

We have considered the materials on record including statement of minor victim. Her statement implicates the petitioner in the crime. Deposition of witnesses in a different case may not be relevant to adjudicate the culpability of the petitioner depends on the evidence adduced in the present case.

Under such circumstances and in view of gravity of the offence and as the victim has not been examined as yet, we are of the opinion that this is not a fit case to grant bail to the petitioner at this stage.

The application for bail is, thus, rejected.

We are informed that date has been fixed for consideration of charge on 04.08.2022. Trial court is directed to take necessary steps to consider the issue of framing of charge on the next date fixed and if it is unable to do so positively within one month thereof and thereafter proceed with the trial with utmost expedition keeping in mind Section 35(2) of the POCSO Act. Needless to mention victim shall be examined at the earliest.

Copy of the order be communicated to the trial court.

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)