

16.02.2022
Court No.32
Item No. 235
Avijit Mitra

C.R.M. No. 7408 of 2021

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Harirampur Police Station case no.267 of 2020 dated 07.12.2020 under Sections 363/365 of the Indian Penal Code and added Section 8 of POCSO Act, 2012;

And

In Re : Vishnu Kumar

.... petitioner

Mr. Upendra Roy,
Mr. Sunny Nandy,
Mr. Tamal Singha Roy,
Mr. Vivek Tripathy

...for the petitioner

Mr. Iqbal Kabir

....for the State

Mr. Roy, learned lawyer for the petitioner submitted that the petitioner and the victim girl had consensual relationship. The present petitioner is falsely implicated in this case without having any basis. He referred to a statement of the victim, recorded under Section 161 of the Code of Criminal Procedure, where the victim has stated that she had married with the present petitioner. He further submitted that the present petitioner is in custody for more than 350 days. Since one of the accused is absconding there is no chance of immediate commencement of the trial. On the basis of said facts and circumstances bail is prayed for.

Per contra, Mr. Kabir, learned lawyer appearing for the State submitted that the victim is a minor and her statements are strongly incriminatory against the present petitioner. Even though the victim

refused medical examination subsequently, apart from medical report, other materials are there which indicate the culpability of the present petitioner. Accordingly bail is strongly opposed.

We have heard the rival submissions and perused the case diary.

We have perused the statements of the victim girl recorded under Sections 161 and 164 of the Code which implicate the present petitioner in the alleged offence. The victim is a minor and was 13 years old at the time of commission of offence. Chargesheet has been filed but at this stage we cannot jump to conclude that the trial will be delayed. Considering the seriousness of the allegation, its gravity of the offence and the presence of incriminating elements against the petitioner, we are not inclined to allow the bail at this stage.

Accordingly, the application for bail, being CRM No.7408 of 2021, is dismissed.

However, we direct the learned Trial Court to consider the charge, if not done, within a period of 30 days from the date of communication of this order and to finish the trial, if the charge is so framed, preferably within a period of eight months.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Sugato Majumdar, J)

(Tapabrata Chakraborty, J)