

02.02.2022
Court No.32
Item No. 274
Avijit Mitra

C.R.M. 7666 of 2021 (Through video conference)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure ;

And

In Re : Kinkar Das

Petitioner

Mr. Gobinda Chandra Baidya

For the Petitioner

Mr. S.G. Mukherjee, Ld. P.P.,
Mr. Partha Pratim Das,
Ms. Manasi Roy

For the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Maipith Coastal Police Station Case No.40 of 2021 dated 06.05.2021 under sections 376(AB)/506 of the Indian Penal Code and Section 6 of the Protection of Children from Sexual Offences (POCSO) Act, 2012.

Mr. Baidya, learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated in the alleged offence. Upon completion of investigation chargesheet has also been submitted and as such, further detention of the petitioner, who is in custody for about 266 days, is not necessary.

He further submits that complaint had been lodged about 72 hours after the alleged incident and such delay has also not been explained.

Mr. Das, learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to the statement of

the victim girl, who was aged about 10 years on the date of incident, as recorded under Section 164 of the Code and the medical report.

Heard the learned advocates appearing for the respective parties and considered the materials in the case diary.

Prima facie, there are strong incriminating materials against the petitioner. The minor girl was about 10 years old whereas the petitioner was 26 years old on the date of the alleged incident. Considering the gravity of the offence, the nature of accusations and the extent of complicity of the petitioner in the alleged offence, we are not inclined to exercise any discretion in his favour and as such, his prayer for bail is refused at this stage.

Accordingly, the application for bail, being CRM No.7666 of 2021, is dismissed.

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)