

**03.01.2022**

Court No.32  
rpan / **43**

**C.R.M. 8181 of 2021**

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

And

In Re.: **Biswajit Sardar @ Biswa Sardar @ Joga**  
- Petitioner

Mr. Sabir Ahmed (through v.c.),  
Mr. Kalyan Chatterjee  
... for the Petitioner.

Ms. Sujata Das  
... for the State.

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Kultali Police Station Case No.253 of 2021 dated 02.06.2021 under Sections 363/365 of the Indian Penal Code, 1860 [charge sheet being no.206 of 2021 dated 29.06.2021 submitted under Sections 363/365 of the Indian Penal Code, 1860 and Section 12 of the POCSO Act and Sections 9/10/11 of Prohibition of Child Marriage Act, 2006].

Mr. Ahmed, learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated. The ingredients of Sections 363/365 of the Indian Penal Code and Section 12 of the POCSO Act are not attracted against the petitioner. He is languishing in custody for more than 215 days and upon completion of investigation charge sheet has also been submitted. In the said conspectus, the petitioner may be enlarged on bail on any stringent condition.

The learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to several documents in the case diary, including the statement of the victim girl as recorded under Section 164 of the Code. Answering a query of this Court, the learned advocate submits that the victim refused medical examination.

Having heard the learned advocates and considering the materials in the case diary, the statement of the victim girl, as recorded under Section 164 of the Code, the period of detention suffered by the petitioner and the extent of his complicity in the alleged offence, we are of the opinion that further detention is not warranted, more so when, upon completion of investigation charge sheet has been submitted.

Accordingly, we allow this application and direct that the petitioner, namely, **Biswajit Sardar @ Biswa Sardar @ Joga** shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be a local, to the satisfaction of the learned Judge, Special Court under POCSO Act, Baruipur, South 24-Parganas.

It is further directed that the petitioner shall attend the learned court below on the dates specified for hearing and shall not tamper with the evidence and/or intimidate the witnesses in any manner whatsoever.

In the event the petitioner fails to comply with the aforesaid directions, without any justifiable cause, the learned court below

shall be at liberty to cancel his bail, in accordance with law, without further reference to this Court.

With the aforesaid observations, the application for bail, being CRM No.8181 of 2021, is disposed of.

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)**