

CRM No.8563 of 2021

Via video conference

31.01.22

(S.R.)

Sl.40

Ct.32

In re: An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with **Baishnabnagar** Police Station Case No.267 of 2020 dated 01/06/2020 under Sections 363/365/34 of the Indian Penal Code and Section 4 of the POCSO Act (POCSO/Special Case No.04 of 2021);

And

In re: Dhan Kumar Singha @ Dhankumar Singha

... petitioner.

Mr. Kalidas Saha

... for the petitioner.

Mr. Bidyut Kr. Roy

Miss. Rita Datta

...for the State.

Mr. Saha, learned advocate appearing for the petitioner submits that the petitioner had a love relationship with the victim girl. She willingly left her residence and accompanied the petitioner. The allegations, as levelled against the petitioner, are thus unfounded. Upon completion of investigation, charge sheet has been submitted and as such, further detention of the petitioner, who is in custody for 123 days may not be necessary and he may be enlarged on bail on any stringent condition.

Miss. Datta, 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, who was subsequently recovered, as recorded under Section 164.

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

Prima facie, the statement of the victim girl, as recorded under Section 164, appears to be exonerative in nature, wherein, she had, *inter alia*, stated that she willingly left her residence and resided in the parental house of the petitioner as husband and wife and that she

would marry the petitioner upon attaining majority. It appears from the materials in the case diary that the victim also refused medical examination. In the said conspectus and as the petitioner has already suffered long incarceration for 123 days, we are of the opinion that custodial interrogation is not necessary.

Accordingly, the petitioner 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 local, to the satisfaction of the Learned Additional District Judge 2nd Court (Special Court), Malda with a further condition that the petitioner shall attend the learned trial court on all the dates specified for hearing.

It is further directed that the petitioner shall not intimidate the witnesses or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioner fails to comply with the aforesaid directions without any justifiable cause, the learned trial court would be at liberty to cancel the his bail without any further reference to this Court.

The application for bail being CRM No.8563 of 2021 is, accordingly, allowed.

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.)