

03.02. 2022

Court No.32

rpan / **17**

C.R.M. 8592 of 2021

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

And

In Re.: **Susmita Das & Another**

- Petitioners

Mr. Kallol Mondal,
Mr. Sanakr Halder,
Mr. Krishan Roy
... for the Petitioners.

Mr. N. P. Agarwala,
Ms. Subhsree Patel
... for the State.

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioners in connection with Barrackpore Women Police Station Case No.40 of 2021 dated 18.09.2021 under Sections 376(2)(j)(k)(n)/ 471/ 506/ 114 of the Indian Penal Code, 1860 read with Sections 4/6/17/21 of the Protection of Children from Sexual Offences Act, 2012 and Sections 13/14A/14C of the Foreigners Act.

Mr. Mondal, learned advocate appearing for the petitioners submits that the petitioners are the female members and there is no possibility that they would flee from justice. They have already suffered long incarceration for a period of 139 days. Upon completion of investigation charge sheet has also been submitted. The alleged incident, according to the victim, occurred on 17th February, 2020, when she was aged about 17 years and the complaint had been lodged more than one and a half years thereafter on 18th September, 2021 and there is absolutely no

explanation towards the delay. In the said conspectus, the petitioners may be enlarged on bail on any stringent condition.

Ms. Patel, learned advocate appears on behalf of the State 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 our query, she submits that the date of birth of the victim girl is 26th October, 2003 and that presently she has attained majority.

Heard the learned advocates and considered the materials in the case diary.

Prima facie, it appears that the principal accused persons are one Ashis Mondal and one Uttam Mondal, who are already in custody. The ingredients of Section 376(2)(j)(k)(n) of the Indian Penal Code and POCSO Act are not attracted against the present petitioners. They are female members of the families and *prima facie* there is also no possibility that they would flee from justice. Considering the nature of accusations and the possible extent of complicity of the petitioners in the alleged offence, we are of the opinion that further detention of the petitioners is not warranted, more so when, upon completion of investigation charge sheet has been submitted.

Accordingly, we allow this application and direct that the petitioners, namely, **Susmita Das** and **Sandhya Mondal** shall be released on bail upon furnishing a bond of Rs.10,000/- each with two sureties of like amount each, one of whom must be a local, to the satisfaction of the learned Additional Sessions Judge (Special

Judge under POCSO Act), 1st Court, Barrackpore, North 24-Parganas.

It is further directed that the petitioners 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 petitioners fail to comply with the aforesaid directions, without any justifiable cause, the learned court below shall be at liberty to cancel their bail, in accordance with law, without further reference to this Court.

With the aforesaid observations, the application for bail, being CRM No.8592 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.)