

CRM 8909 of 2021
(via video conference)

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

And

In Re : Irshad Alam

.....Petitioner

Mr. Apurba Kumar Datta

.....for the Petitioner

Mr. M. F. A. Begg

.....for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Kulti P.S. Case No. 476 of 2021 dated 10.09.2021 under Sections 376/323/506 of the Indian Penal Code and Sections 4/6 of the POCSO Act.

The learned advocate appearing for the petitioner submits that there was a love relationship between the petitioner and the victim. Such relationship was entered into being aware of the consequences that may follow. Presently, the victim is aged about 18 years and the petitioner is aged about 21 years. Upon completion of investigation, charge sheet has already been submitted and as such, further detention of the petitioner, who is in custody for about 152 days, may not be necessary and he may be enlarged on bail on any stringent condition.

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

of the victim, as recorded under Section 164 of the Code and the injury report.

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

Prima facie, it appears that there was a free-mixing between the parties. Such relationship between the petitioner and the victim was consensual in nature and such relationship continued even after the victim attained majority. The date of birth of the victim is 3rd February, 2002 and the incident occurred on 9th September, 2021. Considering the nature of accusations, the period of detention already suffered by the petitioner and the possible extent of his complicity, we are of the opinion that his custodial interrogation is not necessary. However, the petitioner's movement needs to be restricted.

Accordingly, we allow this application and direct that the petitioner, namely, **Irshad Alam**, 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 Special Court under the POCSO Act, Asansol with a further condition that the petitioner shall not enter the jurisdiction of Kulti Police Station until further orders.

He shall also intimate the address where he would be residing to the Officer-in-Charge, Kulti Police Station immediately.

He shall also not contact with the victim directly or over telephone or by any other electronic media in any manner whatsoever.

The petitioner shall attend the learned Court below on all the dates, as specified for hearing and 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 his bail without any further reference to this Court.

With the aforesaid observations, the application for bail, being CRM No. 8909 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.)