

21.09.2022

Item No.2

Ct.No.34

dc.

Allowed

C.R.M. (SB) 215 of 2022

In Re : An Application for bail under Section 439 of the Code of Criminal Procedure filed in connection with Patharpratima Police Station Case No. 306 of 2021 dated 27.11.2021 under Section 8 of the Protection of Children from Sexual Offences Act, 2012.

And

In Re : **Haripada Manna**

... Petitioner.

Mr. Ayan Basu,
Mr. Sandip Kumar Mondal,
Mr. Sourav Bera,
Mr. Sumit Routh

... For the Petitioner.

Mr. Prasun Kumar Datta,
Mr. Santanu Deb Roy

... For the State.

Petitioner is in custody for about 298 days. Mr. Ayan Basu, learned advocate appearing for the petitioner submits that the petitioner is 60 years old and if the statement of the victim recorded under Section 164 of the Code of Criminal Procedure as also the statement recorded under Section 161 of the Code of Criminal Procedure are taken into consideration, then also it is questionable whether an offence under the relevant provisions of the POCSO Act is made out or not. Learned advocate submits that there is a vindictive attitude of the complainant and the narration of facts do not warrant invocation of the provisions as complained of.

Mr. Datta, learned advocate appearing for the State opposes the prayer for bail and submits that the petitioner

with a malafide attitude offered money to the victim child in order to satisfy his desire and as such, he may not be released on bail.

I have considered the materials appearing in the case diary particularly, the statement of the victim recorded under Section 164 of the Code of Criminal Procedure as well as the statement of the father of the victim under Section 161 of the Code of Criminal Procedure. Having regard to the materials appearing therein, I am of the opinion that further detention of the petitioner is unwarranted in the facts and circumstances of the case. As such, the prayer for bail of the petitioner is **allowed**.

Accordingly, the petitioner viz., **Haripada Manna** shall be released on bail upon furnishing bond of Rs.10,000/- (Rupees Ten Thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Special Court under the POCSO Act, Kakdwip, South 24-Parganas.

The following conditions are imposed, if the petitioner is released on bail.

1. The petitioner shall attend the learned Special Court once in a fortnight and obtain acknowledgement till further orders of this Court.
2. The aforesaid condition is apart from the regular date fixed for trial of the case.

3. The petitioner will not threaten the witnesses of the case or make any attempt which would jeopardize the progress of trial of the case.

If any of the aforesaid conditions are violated, the learned Special Court would be at liberty to cancel the bail of the petitioner without further reference to this Court.

The application for bail, being CRM (SB) 215 of 2022, is, thus, disposed of.

All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)