

21.09.2022.
16.
Ct.No.28
as
(Rejected)

C.R.M. (DB) 3185 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Matia P.S. Case No.225 of 2022 dated 13.06.2022 under Sections 376/354/506/34 of the Indian Penal Code and Section 4/8 of the POCSO Act.

In the matter of : Kumaresh Bose @ Ganesh.

... Petitioner.

Mr. Dipankar Guha.

...for the Petitioner.

Mr. Binay Panda,
Ms. Puspita Saha.

...for the State.

Petitioner is in custody for 100 days. He submits there is no injury on the private parts of the victim. Victim admitted in her statement recorded under Section 164 of the Code of Criminal Procedure she was tutored by her mother.

Learned Advocate for the State opposes the prayer for bail.

We have considered the materials on record. Statement of the victim is corroborated by her mother and other witnesses. She stated petitioner had inserted his finger in her private parts.

In view of the nature of the sexual act, absence of injury does not affect the credibility of the case. Provisions under the POCSO Act provide for support to the victim and permits presence of the guardian or support person while her statement is recorded. Observation of the victim with regard to

the advice of her mother is to be seen in the light of the aforesaid statutory provisions to protect the vulnerable witness. Bearing in mind the nature of offence some delay in lodging the first information report would not affect its credibility.

In view of the aforesaid materials on record and gravity of the offence, we are not inclined to grant bail to the petitioner at this stage.

Accordingly, the prayer for bail of the petitioner is rejected.

(Ajay Kumar Gupta,J.)

(Joymalya Bagchi, J.)