

**20.10.2022**  
**Item No.47.**  
**G.S.Das/**  
**Mithun**  
**Ct.28.**

**CRM (DB)/3556/2022**

In Re: An application for bail under Section 439 of the Code of Criminal Procedure, in POCSO Case No.107 of 2022 arising out of Malda P.S. Case No.250/2022 dated 19.06.2022 under Section 363/365/34 of the Indian Penal Code adding Section 364/302/201 of the Indian Penal Code read with Section 6 of the Protection of Children from Sexual Offences Act, 2012 now pending in the Court of the learned Additional Sessions Judge, 2<sup>nd</sup> Court, Malda.

And

In the matter of : **Islam Ali @ Md.Islam.**

...petitioner.

Mr. Rana Mukherjee, Adv.

Mr. Rhiddhiman Mukherjee, Adv.

...for the petitioner.

Mr. Rudradipto Nandy, Adv.

Mr. Anwar Hossain, , Adv.

Mr. Asif Dewan, Adv.

...for the State.

We have heard the learned Advocate for the petitioner and the learned Public Prosecutor-in-Charge.

It is submitted on behalf of the petitioner that the petitioner is the father of the principal accused, named Samim Akhtar. As the prosecution case, the minor victim girl received phone call from the son of the petitioner and left her home. Subsequently her dead body was recovered from a pond situated by the side of the house of the petitioner. It is subsequently ascertained that the victim was raped,

murdered by strangulation. Thereafter a wooden stick was inserted into her private parts putting the same in a gunny bag. Learned Advocate for the petitioner vehemently urged that petitioner being the father of the principal accused is not a party to the commission of offence. A father cannot aid or abate commission of rape by his son upon a minor girl. He had no knowledge about murder and concealment of dead body of the minor victim girl. Therefore, the petitioner should be released on bail.

Learned Public Prosecutor-in-Charge, on the other hand, refers to the order dated 16<sup>th</sup> August, 2022 passed in CRM(DB) 2734 of 2022 wherein this Court rejected the prayer for bail of the present petitioner.

We have carefully perused the Case Diary. The place of occurrence is the house of the present petitioner. The victim was murdered by strangulation in his house. Subsequently the body of the deceased was thrown away in a pond to screen the evidence. The prima facie involvement of the petitioner transpires from the materials available in the Case Diary at least in respect of his knowledge about commission of offence of murder and concealment of dead body.

Considering such aspect of the matter and in view of the fact that there is no changed circumstances appearing today from 16<sup>th</sup> August, 2022 when the prayer for bail of the petitioner was rejected by the Division Bench of this Court, we are not inclined to grant bail to the petitioner.

Prayer for bail is, thus, **rejected**.

Considering the period of detention, the learned Special Court under the POCSO Act is requested to fix a date for consideration of charge within one month after Puja Vacation.

**CRM(DB) 3556 of 2022** is, thus, **disposed of**.

All parties to act on the server copy of this order duly collected from the official website of the Hon'ble High Court, Calcutta.

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

**(Biswaroop Chowdhury, J.)      (Bibek Chaudhuri, J.)**