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14-01-2022
(ct. no.1)
KOLE
Allowed

Circuit Bench of Calcutta High Court At Jalpaiguri
CRM (DB) 17 of 2022

In re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Banarhat Police Station** Case No. **359 of 2021** dated **26.09.2021** under Sections **363/376/307/506** of the Indian Penal Code read with Section 4(1) of the POCSO Act.

- A n d -

In the matter of : Raj Mahali

.... Petitioner.

Mr. S. Guha,

... For the Petitioner.

Mr. N. Chakraborty,
Mr. S. S. Sikdar,

... For the State.

The petitioner, aged about 18 years, says that the complaint is out and out false. He is not involved in the alleged incident in any manner whatsoever.

Charges are under Sections 363/376/307/506 of the Indian Penal Code read with Section 4(1) of the Protection of Children from Sexual Offences Act.

The State strongly opposes the prayer for bail.

We have seen the statement of the victim girl, about 16 years of age, recorded under Section 164 of the Code of Criminal Procedure. The statement does not *prima facie* support the charges. The petitioner is in custody for about 110 days. Charge sheet has been submitted upon completion of investigation.

On an overall assessment of the facts and circumstances of the case and the nature of the material on record, we are of the

view that further custodial detention of the petitioner may not be necessary.

Accordingly, we direct that the petitioner, namely, **Raj Mahali**, 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 local, to the satisfaction of the Learned Judge, Special Court, (under the POCSO Act) 2nd Court, Jalpaiguri and on further conditions that he shall not leave the jurisdiction of the concerned police station and shall report to the Officer-in-Charge of the concerned police station once in a fortnight until further orders. The petitioner shall appear before the trial Court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this court.

The application for bail is, accordingly, allowed.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(**Aniruddha Roy, J.)**

(**Arijit Banerjee, J.)**