

01.03.2022

COURT : 01
ITEM : 22
MATTER : 439
STATUS : REJECTED
TRANSCRIBER : nandy

CIRCUIT BENCH OF CALCUTTA HIGH COURT AT JALPAIGURI

CRM (DB) 37 of 2022

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed on February 1, 2022 in connection with Jalpaiguri Women Police Station Case No. 114 of 2021 dated 15.09.2021 under Sections 448/376(3)/323/325/307/379/34 of the Indian Penal Code read with Section 4 of the Protection of Children from Sexual Offences Act. (POCSO Case No. 115 of 2021)

And

In the matter of: **Raju Basfore**

...Petitioner

Mr. Anirban Banerjee, Advocate

...for the Petitioner

Mr. Aditi Shankar Chakraborty, Learned APP

Mr. Sourav Ganguly, Advocate

Mr. Biswarup Roy, Advocate

...for the State

The petitioner is seeking bail in connection with Jalpaiguri Women Police Station Case No. 114 of 2021 dated 15.09.2021 under Sections 448/376(3)/323/325/307/379/34 of the Indian Penal Code read with Section 4 of the Protection of Children from Sexual Offences Act.

The petitioner is in custody for nearly 160 days in connection with afore-mentioned case. It is alleged against the petitioner that there was a scuffle between the grandfather of the victim girl and the present petitioner and in course of such incident, the petitioner ravished her and also torn the clothes. The facts have been narrated by the victim girl in her statement recorded under Section 164 of the Code of Criminal Procedure. However, we find that another victim girl being the sister of the prime victim girl, made an allegation against the petitioner and his family members for snatching a gold chain.

We do not find any element of an offence under the POCSO Act from the statement of the sister of the prime victim girl. Since the prime victim girl vividly narrated her statement and the same prima facie constitutes an offence under the POCSO Act, even though chargesheet has been submitted, we do not find that this is a fit case where the petitioner should be enlarged on bail.

Accordingly, the prayer for bail is **rejected**.

The application being **CRM (DB) 37 of 2022** is **dismissed** at this stage.

We, however, request the learned Judge of the trial Court to take up the matter immediately and expedite the trial of the case so that it can be brought to its logical end within a reasonable time.

(Harish Tandon, J)

(Rabindranath Samanta, J)