

06.01.2022
Item no.21.
Court No.1.
AB
(Allowed)

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI
(Via Video Conference)**

CRM No. 526 of 2021 with IA CRAN 1 of 2021

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure in connection with Dhupguri Police Station Case No.461 of 2020 Dated 3.12.2020 under Section 4 of the POCSO Act read with Section 448/326/376/306/511/506/34 of the Indian Penal Code

And

In the matter of: Rakhiul Islam @ Rakiul Islam

.....Petitioner.

Mr. Arnab Sahafor the Petitioner.

Mr. Arun Kumar Sarkar,
Mr. Sagnik Sankar Sikdarfor the State.

The petitioner, about 22 years old, is in custody for about 394 days. The charge is under various sections of the Indian Penal Code, read with Section 4 of the Protection of Children from Sexual Offences Act, 2012.

The petitioner says that there was a four year old love affair between the petitioner and the victim girl. Ultimately, the petitioner's family stood in the way of marriage between the girl and the petitioner. The petitioner, therefore, refused to marry the girl. Feeling ditched, the girl attempted to commit suicide by setting herself on fire. She survived after 21 days of treatment.

The State vehemently opposes the prayer for bail.

We have seen the material in the case diary including the statement of the victim girl recorded under Section 164 of the Code of Criminal Procedure. She squarely admits that there was a longstanding relationship between her and the petitioner.

We have assessed the facts and circumstances of the case. Charge sheet has been submitted upon completion of investigation. The petitioner may have acted in a culpable manner. If the charges are proved against him, he will suffer punishment. However, presently, in our opinion, no useful purpose will be served by continuing to detain the petitioner in custody.

We cannot lose sight of the fact that bail is still the Rule and jail is the exception. We are inclined to allow the petitioner's prayer for bail, but on stringent conditions.

Accordingly, we direct that the petitioner, namely, **Rakhiul Islam @ Rakiul Islam** 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 at Jalpaiguri and/or the relevant Court in Charge thereof, and on further conditions that the petitioner shall not enter the jurisdiction of Dhupguri Police Station except for attending Court proceedings and shall provide the address where he shall presently reside to the Officer-in-Charge of the concerned police station. The petitioner shall also meet 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.

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.)