

15.09.2022

Item No.12

Ct.No.1

K.B/b.r.

Rejected

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
Criminal Appellate Jurisdiction

CRM (DB) 286 of 2022

In Re: - An application for bail under Section 439 of the Code of Criminal Order dated 7th May, 2022 passed by the Learned Special Judge, Special Court (under the Protection of Children's from Sexual Offences Act, 2012), Darjeeling in connection with Special (C) Case No. 02 o 2020 and in the matter of Rangli-Rangliot P.S. Case No. 01 of 2020, dated 01.01.2020, under Section 6 of the POCSO Act, 2012 and adding Section 313 of the IPC, 1869.

And

In the matter of: **Pharsalal Sanyasi @ Pharshalal Sanyshi @ Pharsalal Sanyashi.**

....Petitioner

Mr. Sabir Ahamed
Ms. Mousumi Das
Mr. Hillol Saha Poddar

...for the Petitioner

Mr. Aditi Shankar Chakraborty, Ld. App
Mr. Ujjal Luksom
Mr. Biswarup Roy

.....for the State

This is an application for grant of bail in
connection with Rangli-Rangliot P.S. Case No. 01
of 2020 dated 01.01.2020 under Section 6 of the
Protection of Children from Sexual Offences Act,

2012 read with Section 313 of the Indian Penal Code corresponding to Special (C) Case No. 02 of 2020 pending before the Learned Special Judge, Special Court (POCSO) Court, Darjeeling.

Learned Counsel for the petitioner submits that the name of the petitioner is appearing only after the medical examination of the victim. There is a family dispute between the accused of the victim family and accordingly the accused has been falsely implicated in the instant case.

Learned Counsel for the petitioner submits that one of the accused, namely, Dr. Rabindra Nath Nag has also been granted bail by the learned Court below. Learned Counsel for the petitioner further submits that the co-accused filed a criminal revisional application before the Hon'ble Single Bench being CRR 173 of 2021 praying for quashing of the proceeding of the instant case and accordingly the Hon'ble Court had stayed the trial till the disposal of the criminal revision due to which the trial could not be started and as such the petitioner is in

custody for the last more than two years.

Learned Counsel for the petitioner submits that there is no chance of commencement of the trial as there is an order of stay by the Hon'ble Single Judge. Learned Counsel for the petitioner further submits that the petitioner is in custody last more than two years and no purpose would be served if the petitioner is detained in custody further.

Per contra, learned Counsel for the State submits that the victim is about 13 years and when the victim came to know about the pregnancy, the petitioner has taken the victim to the co-accused and have aborted the child of the victim illegally due to which case has been initiated.

Learned Counsel for the State further submits that the allegation levelled against the petitioner is grave in nature and at this stage if the petitioner is released on bail there is every apprehension that the petitioner is hamper and tamper with the evidence.

Learned Counsel for the State further submits that the victim has categorically narrated the incident in her statement recorded under Section 164 of the Criminal Procedure Code.

Heard the learned Counsel for the respective parties, perused the Case Diary and the materials on record, this Court finds that the offence alleged against the petitioner is grave in nature and the age of the victim is 13 years and as per the statement recorded under Section 164 Cr.PC the victim has narrated the facts of the case in which the petitioner is involved in the matter.

Considered the same, this Court did not find any merit in the instant case and accordingly, **CRM (DB) 286 of 2022, stands rejected.**

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

(Krishna Rao J.)

(Subrata Talukdar, J.)

