

28.02.2022

COURT : 01
ITEM : 05
MATTER : 439
STATUS : ABSOLUTE
TRANSCRIBER : nandy

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

(Via Video Conference)

CRM 1081 of 2021

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed on November 18, 2021 in connection with Jaldhaka Police Station Case No. 20 of 2021 dated 28.08.2021 under Sections under Sections 342/363/302/34 of the Indian Penal Code read with Section 6 of the POCSO Act.

And

In the matter of : **Vijay Kumar Choudhary @ Raju**

...Petitioner

Mr. Sandipan Ganguly, Senior Advocate

Mr. Ajoy Kumar Singhania, Advocate

Mr. Tanay Agarwal, Advocate

...for the Petitioner

Mr. Aditii Shankar Chakraborty, Learned A.P.P.

Mr. Ujjal Luksom, Advocate

Mr. Sagnik Shankar Sikdar, Advocate

...for the State

Though interim bail was granted to the petitioner, which was subsequently extended yet the instant application for bail still the matter was kept alive as submission was advanced on behalf of the petitioner that further investigation is in progress to unearth the truth and supplementary chargesheet may be filed.

Initially the case was registered under Sections 342/363/302/34 of the Indian Penal Code read with Section 6 of the Protection of Children from Sexual Offences Act, 2012. After the investigation, chargesheet was submitted under Section 304A of the Indian Penal Code and other Sections which were in the First Information Report, were excluded. A status report is filed in Court today and a prayer is made to file supplementary charge-sheet.

We do not appreciate the manner in which such prayer is made. The High Court never intended to keep the investigation monitored nor intended that it would convert itself to a Court of

Sessions. Since the State made a submission that further investigation is in progress and supplementary chargesheet may be filed, in order to ascertain whether the same has been filed or not, the instant application for bail was kept pending.

The so-called supplementary chargesheet does not reveal that any offence under Section 6 of the POCSO Act and other charging Section which is sought to be added by way of supplementary chargesheet, are there to be proved on circumstantial evidence.

Since the petitioner is already released on interim bail and in view of the facts emerged in the subsequent investigation, we do not find any justification in refusing to extend such benefit to the petitioner.

The interim bail granted earlier in the instant application is made absolute.

The application for bail being **CRM 1081 of 2021** is thus **disposed of**.

Liberty is granted to the State to take appropriate step for filing the supplementary chargesheet before the appropriate Court. We except that the matter would receive an utmost attention of the learned Judge in the Trial Court and endeavour shall be shown to dispose of the same as expeditiously as possible.

(Harish Tandon, J)

(Rabindranath Samanta, J)