

09.09.2022

Item No.16

Ct.No.01

F.B/gsd

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI**

CRM(DB) 302 of 2022

In Re: An application for bail under Section 439 of Cr.P.C in connection with S.C. 189/2017 (163/2017), C.N.R. No. WBJP01-002948-2017) corresponding to Kotwali Police Station Case No. 119/17 dated 19.02.2017 under Sections 370(5)/420/417/468/201/120B of the Indian Penal Code and Sections 75/80/81 of Juvenile Justice Case and Protection Act, 2015.

In the matter of : **Mrinal Ghosh**

... Petitioner.

Mr. Pawan Kumar Gupta
Mr. Alakesh Chakraborty
Mr. Sudipt Guha

... For the Petitioner.

Ms. Aditi Shankar Chakraborty
Mr. Biswarup Roy

... For the State.

Party/parties is/are represented in the order of their name/names as printed above in the cause-title.

This is an application for bail in connection with S.C. 189/2017 (163/2017), C.N.R. No. WBJP01-002948-2017)

corresponding to Kotwali Police Station Case No. 119/17 dated 19.02.2017 under Sections 370(5)/420/417/468/201/120B of the Indian Penal Code and Sections 75/80/81 of Juvenile Justice Case and Protection Act, 2015 (for short, the 2015 Act).

The petitioner who was posted as the District Child Protection Officer (DCPO) in the District of Darjeeling has been charged with trafficking of children and/or illegal selling of babies in connivance and/or conspiracy with several NGSs.

The matter was investigated on the basis of a complaint lodged by the Officer-in-charge, POWC, CID West Bengal at Sadar Police Station, Kotwali Jalpaiguri on 18.02.2017 on receipt of the information from the Central Adoption Resource Authority (for short, the CARA), Ministry of women and Child Development, Government of India. Acting on the information, the petitioner along with several other members of the NGS, who were holding and trafficking babies were rescued.

Mr. Gupta, Learned Counsel, appearing for the petitioner submits that one of the co-accused namely Juhi Chowdhury has been granted bail by the Hon'ble Apex Court.

Mr. Gupta submits that the charges brought against the petitioner do not correspond to the definition of the offences as registered in Kotwali P.S. Case No. 119 of 2017.

It is also submitted that the trial is likely to take a long time since 73 witnesses are involved, out of which only 14 witnesses have been examined.

Mr. Gupta further submits that the petitioner is already in jail custody for more than five years. He again submits that charge in respect of the Juvenile Justice Act has been made out against the writ petitioner.

Per contra, Learned Public Prosecutor, Ms. Chakraborty, submits that the charges against the petitioner are grave. She again submits that as a District Child Protection Officer it is the duty of the petitioner to save the children or the babies from selling and trafficking.

Having heard the parties and considering the materials placed, this Court is *ad idem* with the Learned Public Prosecutor considering the official position enjoyed by the DCPO who abused such position in the alleged heinous act of trafficking and selling of children that does not persuade us to grant the privilege of bail at this stage to petitioner.

This Court is also of the view that for the reason that the petitioner holding the official position of DCPO took officially oath of office to protect the children in his jurisdictional areas on duties, his case cannot be said to be co-equal to that of Juhi Chowdhury.

Accordingly, the prayer for bail of the petitioner is **Rejected**.

CRM(DB) 302 of 2022 is **disposed of** accordingly.

All parties are to act on a server copy of this order from the official website of this court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Krishna Rao, J.)

(Subrata Talukdar, J.)