

06.01.2022
Item no.36.
Court No.1.
AB
(Allowed)

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

CRM No. 1197 of 2021

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure in connection with Jaigaon Police Station Case No.108 of 2021 Dated 3.6.2021 under Section 6 of the POCSO Act

And

In the matter of: Bipul Roy

.....Petitioner.

Mr. Kunaljit Bhattacharjee,
Mr. Kallol Nagfor the Petitioner.

Mr. Kallol Acharjee,
Mr. Sagnik Sankar Sikdar.....for the State.

The petitioner says that he has been falsely implicated. There was a friendly relationship between him and the victim girl. They had a consensual physical relationship. This caused the victim girl to become pregnant. However, no force was ever applied by the petitioner. There is business rivalry between two families which has prompted the filing of this false complaint. Charge sheet has been submitted upon completion of investigation.

We find that the incident is allegedly of December, 2020. The written complaint was lodged on June 30, 2021, i.e., after an inordinate and unexplained delay of more than six months. On that day itself, the victim girl was admitted to

hospital where she gave birth to a baby on 8 July, 2021. The discharge document says that it was a case of normal delivery. If that be so, prima facie, it appears that the petitioner and the victim had sexual relationship from much prior to December, 2020.

We have seen the material in the case diary including statements of witnesses. The State strongly opposes the prayer for bail. The petitioner is in custody since August 26, 2021, when he voluntarily surrendered.

On an overall assessment of the facts and circumstances of the case and the material on record, we are inclined to allow the petitioner's prayer for bail, but on stringent conditions.

Accordingly, we direct that the petitioner, namely, Bipul Roy 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 Alipurduar and/or the relevant Court in Charge thereof, and on further conditions that the petitioner shall not enter the jurisdiction of Jaigaon 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 week 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.)