

3.01.2022
Item no.40
Court No.1
m.ali
(Allowed)

(Via Video Conference)

CRM No. 1248 of 2021

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure filed on 20.12.2021 in connection with Dhupguri Police Station Case No.399 of 2021 Dated 27.09.2021 under Section 376(3) of the Indian Penal Code.

And

In the matter of : Ganesh Roy Petitioner.

Ms. Modhushri Dutta.

.....for the Petitioner.

Mr. Arun Kumar Sarkar,

Mr. S.S. Sikdar for the State.

The charge against the petitioner is under Section 376(3) of the Indian Penal Code read with section 4 of the Protection of Children from Sexual Offences Act, 2012.

The petitioner, about 19 years old, says that the survivor girl is his neighbor and there was a land dispute between the petitioner's family and the family of the survivor. This has prompted the filing of a false complaint against the petitioner. He is in custody for more than six months. Charge sheet has been submitted.

We have seen the material on record including the statement of the survivor girl recorded under Section 164 of the Code of Criminal Procedure. The same is not very convincing.

The medical report does not corroborate the survivor girl's allegations.

In view of the aforesaid and also in view of the fact that the charge sheet has been submitted upon conclusion of investigation, we are inclined to allow the petitioner's prayer for bail but on stringent conditions.

Accordingly, we direct that the petitioner, namely Ganesh 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 Additional Sessions Judge (Under the Protection of Children from Sexual Offences Act, 2012.), 2nd Court, Jalpaiguri and on further conditions that he shall remain within the jurisdiction of the concerned police station and the petitioner shall report to 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 and/or commit any cognizable offence 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.

The application for bail is, accordingly, allowed.

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.)