

31.03.2023
ct 28/tkm/as
sl no.27

C.R.M. (DB) 664 of 2023

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Tehatta P.S, case no. 18 of 2021 dated 11.1.2021 under sections 376(3) IPC and section 4 of the POCSO Act

And

In Re : Rana Roy @ Sujay Roy petitioner

Mr. A K Biswas

Mr. A Singh

Mr. J Agarwal

..... for the petitioner

Mr. M Sur

Mr. A Manna

..... for the State

Mr. Sabir Ahmed

Mr. Kunal Ganguly

..... for the de facto complainant

Report is kept on record.

Special Public Prosecutor has been appointed.

Statement of minor implicates the petitioner in the offence of penetrative sexual assault. In such offences, absence of injury on the minor is not the sole determining factor with regard to credibility of the allegation. This issue requires to be agitated during trial keeping in mind the statutory presumption under section 29 of the POCSO Act.

Under such circumstances and in view of gravity of the offence, we are not inclined to grant bail to the petitioner.

Accordingly, prayer for bail is rejected.

Trial court is requested to consider the issue of framing of charge at the earliest and in the event charge is framed, to take the proceeding to its logical conclusion following the mandate under section 35(2) of the POCSO Act.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)