

10.04.2023
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allowed

CRM(DB) No. 1109 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Krishnagar Kotwali Police Station Case No. 1249 of 2021 dated 28.12.2021 under Section 376DA of the Indian Penal Code and Sections 5/6 of the POCSO Act .

And

In Re : Sayan Halder & Anr. petitioners

Mr. Prabir Majumder
....for the petitioners

Mr. Rudradipta Nandy, learned APP
Mr. Iqbal Ansari
.... for the State

Heard the learned Counsels for the parties. Victim is present in Court.

It is contended though minor victim identified the petitioners in the test identification parade, in court she failed to identify the victim.

It is trite that identification during test identification is not substantive evidence. Keeping in mind the aforesaid fact and period of detention suffered by the petitioners i.e. 468 days, we are inclined to grant bail to them.

Accordingly, we direct that the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- each with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under POCSO Act, Nadia at Krishnagar, Nadia, subject to the condition that petitioners 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 petitioners fail to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel their bail in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed.

(Partha Sarathi Sen, J.)

(Joymalya Bagchi, J.)