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allowed

CRM(DB) No. 1351 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Liluah Police Station Case No. 434 of 2022 dated 30.08.2022 under Sections 4/8/12 of the POCSO Act.

In Re : Deb Kumar Panji

And
..... petitioner

Ms. Anasuya Sinha
Mr. Achin Jana
Mr. Suman Chakraborty
Mr. Prosenjit Ghosh
....for the petitioner

Mr. Swapan Banerjee
Mr. Suman De
.... for the State

Mr. Tusar Hazra
.... for de facto complainant

Learned Counsel for the petitioner submits he is in custody for 85 days. It is also submitted he had lodged complaint against illegal construction made by one Gopal Bhattacharya. Mother of the victim is related to the said Gopal Bhattacharya by marriage. Accordingly, he was falsely implicated in the case. He prays for bail.

Learned Counsel for the State opposes the prayer for bail and submits victim's family is no way connected with the said Gopal Bhattacharya. Petitioner's motor cycle was recovered from the place of occurrence. Injuries were noted on the victim.

Learned Counsel for the de facto complainant also opposes the prayer for bail.

We have considered the materials on record. Petitioner contends minor's mother is related to one Gopal Bhattacharya by marriage. In May, 2022 he lodged complaint with regard to illegal construction made by the said Gopal Bhattacharya and his associates. Demolition order had also been passed. Subsequently petitioner has been falsely implicated in the case. Allegation is that the petitioner went to the residence of the minor along with one Ananda Banerjee. Thereafter they molested the minor. However, police report has only been filed against the petitioner. Whether the petitioner would visit the house of the minor in the backdrop of the enmity between him and said Gopal Bhattacharya requires to be assessed during trial. Keeping in mind the aforesaid facts and period of detention already suffered by the petitioner we are of the opinion further detention is not necessary but his movement requires to be restricted in order to instill confidence in the mind of the minor victim and other witnesses.

Accordingly, we direct that the petitioner 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 2nd Additional District Judge (Special Court POCSO) at Howrah on further conditions that the petitioner shall not enter the jurisdiction of Liluah Police Station except for the purpose of attending court proceedings and shall provide the address where he shall presently reside to the investigating agency as well as court below and shall meet the Officer-in-Charge of the concerned police station within whose

jurisdiction he shall presently reside once in a week until further orders. He 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 appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)