

15.06.2023

Sl. 33
Court No. 29
sdas
(Allowed)

C.R.M. (DB) 2259 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with Airport Police Station Case No. 164 of 2022 dated 07.06.2022 under Sections 376(2)/506 of the Indian Penal Code read with Section 4 of the POCSO Act.

And

In the matter of: **Goutam Roy**

....petitioner.

Mr. Robiul Islam
Mr. Soumyajit Das Mahapatra
Ms. Madhurai Sinha

...for the petitioner.

Mr. S. S. Imam
Mr. S. Kundu

...for the State

1. Heard learned Counsel for the parties.
2. The petitioner is stated to be a neighbour of the victim girl who is stated to be aged about 15 years. Considered the materials placed by the learned Counsel for the parties including the complaints filed by the maternal uncle of the victim, statement of the victim recorded under Section 164 of the Code of Criminal Procedure and the medical examination report of the victim.
3. We do not want to opine anything about the medical examination report for the sake of dignity of the victim. From the written complaint filed in the case it is found that there is no allegation of penetrative sexual assault of the victim. From the statement of the victim recorded under Section 164 of the Code of Criminal Procedure if we enlarge the words used by the victim we may come to a finding that there might have been a penetrative assault but it is a matter of interpretation.

Such a fact should be left to be decided at the time of trial. Initially FIR was registered under Section 8 of the POCSO Act and subsequently Section 4 of the said Act was added. Charge-sheet in the case has already been submitted.

4. Regard being had to such facts and submissions, factum of permanent residence of the petitioner, nature of offence and stage of the proceeding it is directed that the petitioner shall be released on bail by the learned Special Judge, POCSO Act, Barrackpore, North 24 Parganas, on such terms and conditions as deemed just and proper in the facts and circumstances of the case in connection with Airport Police Station Case No. 164 of 2022 dated 07.06.2022 including the conditions that i) the petitioner shall not leave the jurisdiction of the trial court without obtaining leave of the learned Trial Judge; ii) the petitioner shall not threaten or induce any witness of this case in any manner whatsoever including the victim during currency of this order.
5. Accordingly, the prayer for bail is allowed.
6. The application being **CRM (DB) 2259 of 2023** is disposed of.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

