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27.06.2023
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C.R.M. (SB) 117 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure, 1973 filed in connection with Haripal Police Station Case No.95/2023 dated 03.03.2023 under Sections 354C/294/504/509 of the Indian Penal Code read with Section 12 of Protection of Children from Sexual Offences Act and under Section 66E/67 of Information Technology Act, 2000;

Pradip Bauri
Versus
The State of West Bengal and another

Mr. Shiladitya Banerjee.
...for the petitioner.

Mr. Anwar Hossain,
Ms. Sreyashee Biswas.
...for the State.

Mr. Ayan Bhattacharjee.
...for the opposite party no.2.

The present application for bail has been preferred in connection with Haripal Police Station Case No.95 of 2023 dated 03.03.2023.

Learned advocate appearing for the petitioner submits that the petitioner is in custody for about 78 days and till date charge has not been framed. Learned advocate also submits that if the petitioner is granted bail on any stringent conditions, he is ready to cooperate with the trial court so that there is no impediment in course of the trial.

Mr. Bhattacharjee, learned advocate appearing for the de facto complainant draws the attention of this Court to the order dated 21st April, 2023. Learned advocate submits that the accused

persons have already started to create obstruction in the smooth progress of the case as the case records were not available before the learned special court even after the charge-sheet was submitted. Mr. Bhattacharjee also submits that having regard to the nature of the offence complained of and the materials collected, it would have been in the interest of justice that the Investigating Agency should have incorporated Section 14 of the POCSO Act while submitting the charge-sheet. The Investigating Agency in spite of their best efforts could not recover mobile phone of the accused.

Mr. Hossain, learned advocate appearing for the State has produced the case diary and opposes the prayer for bail. Learned advocate for the State supports the contentions of Mr. Bhattacharjee.

Be that as it may, so far as charges are concerned, it is absolutely domain of the learned special court at the stage of consideration of charges.

This Court has been informed that the next date for the case has been fixed in the month of July, 2023.

Having regard to the nature of the allegations and the submissions advanced before this Court by the State as well as on behalf of the de facto complainant, I am of the view that the petitioner is not entitled to be released on bail at this stage.

Accordingly, CRM (SB) 117 of 2023 is dismissed.

Liberty is granted to the petitioner to renew his prayer for bail after the evidence of the victim and the expert are over.

All parties shall act on the server copy of this order duly

downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Tirthankar Ghosh, J.)