

24.08.2023

SL. 17

Court No. 29

Sourav

(Allowed)

C.R.M. (A) 3188 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Hariharpara** Police Station Case No. **597** of **2022** dated **18.12.2023** under Sections **342/376/506/379/34** IPC read with Section **4** of the POCSO Act.

And

In the matter of: **Saurobh Sk. @ Sourav Sk.**

....petitioner.

Ms. Shabana Hasin
Mr. Mobaidur Hossain

...for the petitioner.

Mr. Saibal Bapuli
Mr. Arijit Ganguly
Mr. Sanjib Kr. Dan

... for the State.

1. Heard learned Counsel for the parties.
2. From the statement of the victim recorded under Section 164 Cr.P.C., it is found that the occurrence happened following some earlier dispute and the narration by the victim unfolds a *prima facie* under Section 8 of the POCSO Act, but we do not find any offence under Section 376/511 IPC at least *prima facie*.
3. Investigation is stated to have been completed in the meantime.
4. Regard being had to such facts and submissions, factum of permanent residence of the petitioner, nature of allegation and completion of investigation, it is directed that the petitioner shall surrender before the learned Additional Sessions Judge, Special Court in POCSO Act, Murshidabad at Berhampore in G.R. Case arising out of the aforesaid P.S. case within 15 days from today. On his appearance and

application for bail he shall be released on bail on such terms and conditions as deemed just and proper in the facts and circumstances of the case including the condition that the petitioner shall appear before the learned Trial Court on each date of substantive hearing subject to provision of Section 317 Cr.P.C.

5. Before parting with the order, we direct the Registrar General to issue a notification to the effect that whenever a victim under POCSO Act is involved in a case, the victim being a minor should not be made a party in any bail application or any other incidental proceeding as he/she being a minor has no authority to defend himself/herself. In such a case, the complainant/informant or any next friend of the victim should be made a party as a guardian.
6. Accordingly, the prayer for the anticipatory bail is allowed.
7. The application being **CRM (A) 3188 of 2023** is disposed of.
8. learned Additional Sessions Judge, Special Court in POCSO Act, Murshidabad at Berhampore is hereby directed to act upon the server copy of this order, if required.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

