

16.08.2023
Sl. No.36
akd
[Rejected]

C. R. M. (DB) 3042 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 24.07.2023 in connection with Ratua Police Station Case No.93 of 2022 dated 09.03.2022 under Section 376(A)(B) of the Indian Penal Code read with Section 6 of the POCSO Act and subsequently charge sheet submitted under Sections 376(A)(B)/120B of the Indian Penal Code read with Section 6 of the POCSO Act.

And

In Re: **Anarul Hoque @ Md. Anarul**

... .. Petitioner

Mr. Tanmay Chowdhury
Ms. Mousumi Parvin
Md. Maznu Ahmed

... .. for the petitioner

Mr. Somnath Ganguly

... .. for the de-facto complainant

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

... .. for the State

1. It is submitted on behalf of the petitioner that there was a land dispute and he has been falsely implicated. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits victim is a three year old girl. Medical report shows injuries in her private parts.
3. Learned Advocate for the de-facto complainant does not oppose the prayer for bail.
4. We have considered the materials on record. Most of the witnesses have turned hostile. Parents of the victim have resiled from their earlier statements before Magistrate.
5. We are surprised at the pre-varicating stance taken by the said witnesses. In this backdrop, under ordinary circumstances, we would have been constrained to enlarge the petitioner on bail. But we

notice that the victim is a three year old girl and the medical report shows history of penetrative sexual assault and bleeding injuries in her private parts. Medical officer is yet to be examined. His deposition requires to be assessed in the attending circumstances of the case. Hence, we are not inclined to grant bail to the petitioner at this stage.

6. The application for bail is thus rejected.
7. Trial court is directed to examine the medical officer at the earliest.
8. Parties shall communicate a copy of this order to the trial court for due compliance.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)