

02.08.2023
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allowed

CRM(DB) No. 3060 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Bidhannagar (South) Police Station Case No. 92 of 2023 dated 14.04.2023 under Sections 4/6/8/10/12 of the POCSO Act.

And

In Re : Raju Sikdar petitioner

Mr. Jayanta Narayan Chatterjee

Mr. Bidyut Baran Biswas

Mr. Alope Chakraborty

....for the petitioner

Mr. Sudip Ghosh

Mr. Koushik Kundu

..... for the State

Mr. Sanjay Banerjee

Ms. Samriddhi Majumder

..... for the opposite party no. 2

Learned Counsel for the petitioner submits he is in custody for 109 days. He is a karate teacher. Victim girl was taking lessons under him. Dispute arose with regard to her participation in a karate competition on 9th April, 2023. In retaliation, a false case was registered. Investigation is complete.

Learned Counsel for the State opposes the prayer for bail and submits that the victim is aged around 12 years. She was subjected to sexual assault by the petitioner since September, 2022. Initially she divulged this to her friend. On 12th April, 2023 parents were made aware of the incident and the case was registered.

Learned lawyer for the de facto complainant submits out of fear and embarrassment the victim was unable to come out with the incident earlier.

We have considered the materials on record. It is alleged that the incidents of sexual assault began from September, 2022. In spite that victim girl had continued to take lessons under the petitioner. Even if she may have been embarrassed to divulge the incident to her parents (which requires to be thrashed out during trial) there is nothing on record to show she expressed unwillingness to her guardian to continue her lessons. Nothing is placed on record to show petitioner had threatened her not to disclose the incident. Date on which she divulged the incident to her friend is unclear. On the other hand, it is contended her failure to win a prize in a competition in April, 2023 may have triggered a backlash.

Even if the allegations are established they would not attract the graver offences under Sections 4/6 of the POCSO Act. Initial investigation is complete. Further investigation with regard to forensic examination of the mobile phone of the petitioner does not require continued detention. Under such circumstances, we are of the opinion petitioner may be enlarged on bail, however, subject to strict conditions.

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 Judge, Special Court under POCSO Act, Barasat, North 24-Parganas, on further conditions that while

on bail petitioner shall not enter the jurisdiction of Bidhannagar (South) 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 police station concerned within whose jurisdiction he shall presently reside once in a week until further orders. Petitioner 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.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)