

29.08.2023

SL. 31

Court No. 29

Suvayan

(Allowed)

C.R.M. (A) 3405 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Goalpokher** P.S. Case No. **23 of 2021** dated **15.01.2021** under Sections **363/365/376DA/34** of the IPC read with Section **6** of the POCSO Act pending before the learned Judge, Special Court (POCSO Act), Islampur, Uttardinajpur.

And

In the matter of: **Md. Sabir @ Sabir Alam**

....petitioner.

Mr. M. Nazar Chowdhury

Mr. M. A. Salik

...for the petitioner.

Mr. Arijit Ganguly

Mr. Sanjib Kr. Dan

...for the State.

1. Heard learned Counsel for both the parties.
2. The present petitioner is stated to be the elder brother of one of the co-accused. It is alleged that both the petitioner and his brother kidnapped the victim and ravished her. From the statement of the co-villagers recorded under Section 161 Cr.P.C., it is found that both the brothers took the victim girl in a Maruti Omni car. The Statement of the victim recorded under Section 164 Cr.P.C. shows that though she is stated to have been ravished no name has been stated by her.
3. In view of such fact, it cannot be presumed at this stage that the present petitioner is one who has also ravished the victim girl at least *prima facie*. This question should be left to be decided by the Trial Court on the basis of the evidence obtained on record during trial.
4. Regard being had to 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 Judge, Special Court (POCSO Act), Islampur,

Uttar Dinajpur within 15 days from today in the Spl. case arising out of aforesaid P.S. case. On his appearance and application for bail the petitioner shall be released on bail on such terms and conditions as deemed just and proper in the facts and circumstances of the case.

5. The learned Judge, Special Court (POCSO Act) is directed to act upon the server copy of this order, if required.
6. Accordingly, the prayer for the anticipatory bail is allowed.
7. The application being **CRM (A) 3405 of 2023** is disposed of.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

