

30.08.2023
(D/L 45)
Ct. No.29
Allowed
(SKB)

CRM (A) 3491 of 2023

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure in connection with Hariharpara P.S. Case No.584 of 2022 dated 27.12.2022 under Sections 341/376/506/34 of the Indian Penal Code and Section 6 of the POCSO Act.

In the matter of : Mariyan Sk. @ Mariul Sk.

... Petitioner

Ms. Shabana Hasin,
Mr. Mobidur Hossain

... for the petitioner

Mr. Arijit Ganguly,
Mr. Avik Ghatak

... for the State

1. Heard the learned Counsel for the parties.
2. The victim is a minor being aged about 17 years old.
From the statement of the victim recorded under Section 164 Cr.P.C, there is clear implication of the present petitioner, though he is a 19 years old boy. The petitioner is alleged to have impregnated the victim and the victim is stated to have given birth to a male child.
3. Learned counsel for the petitioner submits that the victim being a divorced girl, might have been impregnated by her husband and, according to the birth register and medical certificate, the father's name of the male child is that of the previous husband of the victim.
4. There is stated to be no record of past criminal antecedent against the petitioner. As we are living in the

era of informative jurisprudence, the concept of reform should address the accused from the very outset.

5. Learned counsel for the State fairly submits that no DNA test has been conducted to determine the paternity of the male child.
6. Charge-sheet has been filed.
7. Regard being had to such facts and submissions, factum of permanent residence of the petitioner, his tender age and possibility of reform in him, nature of allegation and completion of investigation, it is directed that the petitioner shall surrender before the learned Special Judge (POCSO Act), Berhampur, Murshidabad in the Special Case arising out of the aforesaid P.S. case within 15 days from today. On his surrender and application for bail, he shall be released on bail by the aforesaid Court on such terms and conditions as deemed just and proper in the facts and circumstances of the case including the conditions:
 - i) The petitioner shall not threaten, induce or coerce any witness of this case in any manner whatsoever during the currency of this order.
 - ii) The petitioner shall appear before the trial court on the date of substantive hearing subject to provision of Section 317 Cr.P.C.
8. Accordingly, the prayer for the anticipatory bail is allowed.

9. The application being CRM(A) 3491 of 2023 is disposed of.

10. The learned court below is hereby directed to act upon the server copy or certified copy of this order.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)