

06.10.2023
SL. 10
Court No. 29
Sourav
(Rejected)

C.R.M. (A) 3493 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Budge Budge** Police Station Case No. **205** of **2023** dated **03.07.2023** under Sections **4** of the POCSO Act.

And

In the matter of: **Sk. Sahidul Ali @ Shaik Saidul Ali**
....petitioner.

Mr. Sekhar Kr. Basu, Sr. Adv.
Mr. Kusal Kr. Mukherjee
Ms. Suchismita Dutta
Ms. Pranidhi Singh

...for the petitioner.

Md. Anwar Hossain
Ms. Sreyashee Biswas

...for the State.

Mr. Sabyasachi Chatterjee
Mr. Omar Faruk Gazi

... for the defacto complainant.

1. The report of the I.O. filed in Court today be kept with the record.
2. Heard learned Counsel for the parties.
3. When the matter was taken up for hearing on 30.08.2023, it was submitted by learned Counsel for the petitioner that the present petitioner Sk. Sahidul Ali @ Shaik Saidul Ali is the proprietor of the nursing home where one Dr. Rajib has been employed and the offence is alleged to have been committed by Dr. Rajib.
4. Mr. Basu, learned Senior Counsel who appeared on the last date submitted that Dr. Rajib and the present petitioner are not the same person. Md. Anwar Hossain, learned Counsel for the State, on the last date submitted that Dr. Rajib and the

present petitioner are the same person. To resolve the contradictory submissions by the learned Counsel for the parties, we had directed learned Counsel for the State to get the matter enquired into by the I.O. to find out whether the present petitioner and one Dr. Rajib are the same person.

5. Today, the report of the I.O. is placed before us by Md. Anwar Hossain, learned Counsel for the State wherein it is clearly reported that the present petitioner and Dr. Rajib are the same person and the present petitioner has been granted bail in Budge Budge P.S. Case No. 224/22 instituted under Section 188/341/447/354/427/379/506/34 IPC on 22.08.2023 by the learned court below in the name of Sk. Sahidul Ali @ Rajib son of Sahid Ali Sk.
6. There is also report of local councilor of Budge Budge municipality to the effect that the present petitioner is also known in the alias name of Rajib.
7. In view of the aforesaid report, it is now clear that the present petitioner and Dr. Rajib are the same person. It is found from the statement of the witnesses and especially, statement of the victim recorded under Section 164 Cr.P.C. and her mother that the present petitioner had done the P.V. check of etc., of the victim.
8. We are surprised as to how a non-medical person acting as doctor could have done such thing to a minor girl. From the materials on record, it is clear that the petitioner is not only pervert but also a greedy person.
9. Regard being had to the seriousness of the charge, we are not

inclined to exercise our discretion under Section 438 Cr.P.C.
in favour of the petitioner.

10. Accordingly, the prayer for anticipatory bail is rejected.

11. The application being **CRM (A) 3493 of 2023** is dismissed.

12. Before parting with the order, we feel constrained to direct the jurisdictional District Magistrate-cum-Collector and jurisdictional CMOH to take action in accordance with law so far as the hospital/nursing home/clinic under the proprietorship/ownership or supervision of the petitioner (Sk. Sahidul Ali @ Shaik Saidul Ali) is concerned and it is to be found out whether there is any illegality in opening of the said unit etc.

13. Department is directed to forward a copy of this order to the jurisdictional District Magistrate-cum-Collector and jurisdictional CMOH for their immediate compliance.

14. Md. Anwar Hossain, learned Counsel for the State is also directed to forward copies of this order to the aforesaid authorities.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

