

01.09.2023

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rejected

C.R.M.(DB) No. 3251 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Tarakeswar Police Station Case No. 121 of 2023 dated 28.03.2023 under Sections 376(2)(n)/376(3)/448/506 of the Indian Penal Code and Section 6(i) of the POCSO Act.

And

In Re : Sk. Safikul Islam @ Sk. Mintu .... Petitioner

Mr. Dibyayan Banerji  
Mr. Shounak Mondal  
Mr. Akash Dasgupta  
....for the petitioner

Mr. Swapan Banerjee  
Mr. Anindya Sundar Chatterjee  
..... for the State

1. Learned Counsel for the petitioner submits he is in custody for 135 days. It is submitted that the medical report does not disclose allegation of penetrative sexual assault. It is also contended that petitioner is a victim of political rivalry and has been falsely implicated. He prays for bail.

2. Learned Counsel for the State opposes the bail prayer.

3. We have considered the materials on record including the statement of the minor victim. Nature of sexual assault depicted by the minor in her statement may not result in injuries in her private parts. It is also relevant to note medical examination was conducted much later. Be that as it may, vulnerable witness is yet to be examined. Under such

circumstances, we are not inclined to grant bail to the petitioner at this stage.

4. The application for bail is, thus, rejected.

5. We request the trial court to examine the minor victim and conclude the same at the earliest according to mandate under Section 35(2) of the POCSO Act.

**(Gaurang Kanth, J.)**

**(Joymalya Bagchi, J.)**