

22.08.2023

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rejected

C.R.M.(DB) No. 3279 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Purulia (Sadar) Women Police Station Case No. 12 of 2020 dated 25.12.2020 under Sections 4/17 of the POCSO Act read with Sections 376/109 of the Indian Penal Code.

And

In Re : Soumili Das petitioner

Mr. A. Bhattacharya

Mr. S. Ghoshal

....for the petitioner

Ms. Anasuya Sinha

Mr. Pinak Kumar Mitra

..... for the State

1.Learned Counsel for the petitioner submits she is the Superintendent of a Children's Home. It is contended that there is no evidence involving her in the sexual exploitation of the minors who were kept in the home. She had prayed for anticipatory bail which was turned down by a co-ordinate Bench of this Court. She appealed before the Hon'ble Apex Court and during pendency of the application she surrendered before the Special Judge. Since then she is in custody for more than a year. She submits there is no legally admissible evidence implicating her in the crime.

2. Learned Counsel for the State opposes the prayer for bail and submits that petitioner is the Superintendent of the Home concerned. She had control and custody over the minor who are sexually exploited. Statement of one of the minors shows that the

exploitation was rampant and even carried her office under the very eyes of the petitioner.

3. We have considered the materials on record. Petitioner was the Superintendent of Ananda Math Juvenile Home. Minor girls who were under her care and custody had been sexually exploited. Materials on record show continuous sexual exploitation of the minors. Organised activity of exploitation of minors appear to have been conducted under the indulgence and support of the petitioner. This would be evident from the statement of one of the victims. She stated that she had been subjected to sexual assault in the very presence of the petitioner in her chamber. Influence of the petitioner is also overwhelming. In spite of the prayer for pre-arrest bail being rejected by a co-ordinate Bench of this Court no step was taken to arrest her. The Hon'ble Apex Court while considering the bail of the petitioner noted the palpable indifference of the investigating agency as well as superior police officers in taking steps against the petitioner. After the caustic observations of the Hon'ble Apex Court the investigating agency was constrained to arrest the petitioner. We place on record our despair regarding the lack of sensitivity of the investigating agency as well as prosecuting agency in conducting the trial of the case. Petitioner has overwhelming influence and vulnerable witnesses have not yet been examined. In view of gravity of the offence, prima facie involvement of the petitioner in the crime and the vulnerability of the witnesses who are yet to depose in Court we do not consider it prudent to enlarge the petitioner on bail.

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

5. We have little confidence on the investigating and the prosecuting agency in the matter of protection of the vulnerable witnesses. Accordingly, we direct the trial court to ensure necessary protection and counselling of the said witnesses so that they are able to depose in Court without fear or apprehension.

6. Department is directed to communicate a copy of this order to the trial court for necessary steps regarding witness protection, as aforesaid.

(Rai Chattopadhyay, J.)

(Joymalya Bagchi, J.)