

05.10.2023
Sl. No.40
akd
[ALLOWED]

C. R. M. (DB) 3836 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 26.09.2023 in connection with Nagerbazar Police Station Case No.134 of 2023 dated 23.04.2023 under Sections 328/384/120B/506 of the Indian Penal Code read with Section 4 of the POCSO Act.

And

In Re: ***Oindrila Sarkar & Anr.***

... .. Petitioners

Mr. Soubhik Mitter
Mr. Joy Chakraborty
Mr. Sandip Dinda

... .. for the petitioners

Ms. Manaswita Mukherjee

... .. for the de-facto complainant

Mr. Parthapratim Das
Mrs. Eshita Dutta

... .. for the State

1. It is submitted on behalf of the petitioners that they are the sister and mother respectively of the principal accused. It is further submitted petitioners had no role to play in the alleged rape of the minor. Their involvement with regard to abetting the principal accused or demanding money as alleged are out and out false. They are in custody for about five months. Accordingly, they pray for bail.
2. Learned Advocate for the State opposes the prayer for bail.
3. Learned Advocate for the de-facto complainant also opposes the prayer for bail and submits petitioners had actively abetted the principal accused in the crime. They also demanded money from the minor and had misappropriated the sum.
4. We have considered the materials on record including the statement of the minor. It appears the principal accused had sexual relationship with her. Allegations against the petitioners i.e. relations

of the principal accused appear to be incidental. Though it is alleged recoveries were made from the petitioners, inspite of queries, learned Advocate for the State is unable to place any seizure list/production memo showing recovery from the said accused. There is no chance of abscondence of the petitioners. Keeping in mind their extent of complicity in the alleged crime and the period of detention suffered by them, we are of the opinion further detention of the petitioners is not necessary.

5. Therefore, the petitioners, namely **(1) Oindrila Sarkar & (2) Kakali Sarkar**, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only) each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the POCSO Act-cum-Additional Sessions Judge, 1st Court, Barrackpore, North 24-Parganas subject to condition that the said petitioners shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.
6. In the event they fail to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel their bail automatically without reference to this court.
7. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)