

08.05.2023
cm (12)

IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CRIMINAL MISCELLANEOUS JURISDICTION

C.R.M.(DB) 212 of 2023

In the Matter of : Khaybar Mia @ Ali @ Khaibar Mia
.... petitioner.

Mr. Arujun Chowdhury
Mr. Pratusha Dutta Chowdhury
Ms. Riya Agarwal

.....For the petitioner.

Mr. A.S. Chakraborty, Ld. A.P.P.,
Mr. Ujjwal Luksom
Ms. Namrata Das

.....For the State.

This is an application for grant of bail filed under Section 439 of the Code of Criminal Procedure, 1973 in connection with Kotwali Police Station Case No. 16 of 2023 dated 4th January, 2023 under Sections 363/365/368, adding Section 366 of the Indian Penal Code, 1860 read with Section 6 of the POCSO Act, 2012 corresponding to G.R. Case No. 21 of 2023 pending before the court of learned Judge POCSO-Court-cum- Additional Session Judge Court, 2nd Court, Cooch Behar.

This application is entertained on the prayer of the learned advocate for the petitioner to file the affidavit-of-service upon the victim in course of today. His submission is

that the victim has been duly served and has accepted service.

The victim is 16 years of age and the accused is 21 years old. It is submitted on behalf of the petitioner that two were friendly to each other. The allegation against the petitioner is of kidnapping and rape. The incident occurred on 4th January, 2023. The complaint was lodged on the same day. However, the petitioner was arrested on 27th January, 2023.

Charge-sheet has been submitted on 6th April, 2023. We have been shown the case diary by the learned advocate for the State. Although the medical report of the examination carried out on 28th January, 2023 reveals “ sign of forcible physical intercourse” we do not find from the records any serious injury on the victim.

Since the investigation is complete., Charge-sheet has been submitted and there is no allegation on record of the accused inferring with witnesses or tampering with evidence, we allow this application for bail on the following conditions:

The petitioner will be enlarged on bail upon furnishing a bond of Rs. 10,000/- (Ten Thousand) with two sureties of like amount each, one of whom must be local, to

the satisfaction of the learned Judge, Special Court under POCSO Act, Cooch Behar on the following conditions:

1. The petitioner shall deposit his passport, if he has one, with the investigating officer,
2. He shall report before the said officer once a week,
3. The petitioner shall not enter the area under the jurisdiction of Kotwali Police Station.,
4. The petitioner shall not leave the limits of the District Cooch Behar where he resides without informing the I.C.,
5. He shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.
6. The petitioner shall attend the court on each and every day of trial, in default, the court shall be at liberty to cancel the bail bond without any reference to this bench.

The application for bail [CRM (DB) 212 of 2023] is, accordingly, disposed of.

(I.P. MUKERJI, J.)

(ANANYA BANDYOPADHYAY, J.)

