

D/L. 45.
September 22, 2023.
MNS

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (DB) 563 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 11.09.2023 in connection with Siliguri Women Police Station Case No. 19 of 2022 dated 14.02.2022 under Sections 366A, 370, 370A, 506 and 34 of the Indian Penal Code, 1860 read with Section 6 of the POCSO Act, 2012.

And

In the matter of: Manik Mondal @ Paresh Mondal and another
.... Petitioners

Ms. Rima Srkar,
Ms. Sidhi Sethia
... for the petitioners

Mr. Aditi Shankar Chakraborty,
Mr. Kallol Nag
... for the State

1. Learned counsel for the petitioners submits that the petitioners are in custody for about one year and eight months.
2. It is further submitted that there are discrepancies as to place of occurrence in the statement under Section 164 of the Cr.P.C. of the victim as well as the FIR and other depositions.
3. However, it is argued that admittedly there was a love affair between the petitioner no. 1 and the victim.

4. Further, it is argued by learned counsel for the petitioners, keeping in view the tender age of the petitioners, the petitioners ought to be granted bail, particularly since the victim herself has already been examined as witness in the trial.
5. Learned counsel for the State opposes the prayer for bail and submits that already some of the witnesses have been examined.
6. It is argued that in view of the nature of the allegations against the petitioners, bail ought not to be granted.
7. We find that the petitioners have made out a triable case as regards there being apparent discrepancies in the prosecution case, insofar as the different materials and statements are concerned.
8. Moreover, the petitioners are respectively of 19 and 26 years of age and prolonged period of incarceration may give do more evil than good to society since the petitioners are still under-trials only.
9. Hence, the purpose of justice would be sub-served in the event bail is granted to the petitioners upon imposition of stringent conditions.
10. Accordingly, CRM (DB) 563 of 2023 is allowed, thereby granting bail to the petitioners on condition that the petitioners furnish bond of Rs.10,000/- each, 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, Siliguri. The sureties may be common in respect of all the petitioners.
11. It is, however, made clear that the petitioners shall not, in any manner, attempt to contact or meet with the victim or the witnesses throughout the period of trial.

12. The petitioners shall not leave the territorial jurisdiction of the trial court during the entire period of trial and shall attend the trial on each and every date.
13. The petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts and circumstances of the case so as to dissuade such person from disclosing such facts to any police officer or the court and/or tamper with the evidence in any manner whatsoever.
14. In the event of violation of any of the above conditions, the petitioners' bail shall be rejected upon giving an opportunity of hearing to the petitioners.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)