

21.09.2023

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***Calcutta High Court
In the Circuit Bench at Jalpaiguri***

CRM (DB) 573 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed on 13.09.2023 in connection with Bhaktinagar Police Station Case No. 248 of 2023 dated 29.03.2023 under Section 6 of the POCSO Act.

In the matter of : Roni Mallick @ Rony Mollik

... petitioner

Mr. Jaydeep Kanta Bhowmik,
Mr. Sayantan Bhowmik,
Ms. Rikta Sarkar

...for the petitioner

Mr. Arjun Chowdhury

.....for the State.

1. Learned counsel appearing for the petitioner contends that petitioner was about 27 years of age and the victim girl was about 17 years of age at the relevant point of time.
2. It is indicated that there was an amorous relationship between the petitioner and the victim. Subsequently, under family pressure, it is argued that the allegations were made. It is contended that there was a marriage between the petitioner and the victim.
3. That apart, learned counsel for the petitioner submits that the petitioner, if granted bail, is even agreeable not to enter the area of the police station where the victim girl

resides although the petitioner is a resident of the same police station area.

4. Learned counsel appearing for the State vehemently opposes the prayer for bail and submits that the allegations in the statement under Section 164 of the Criminal Procedure Code clearly incriminate the petitioner. In view of the gravity of the allegations, it is submitted that the prayer of bail should be refused.
5. We find from the submissions of the parties and the materials annexed that the proximity of the age of the victim to majority at the relevant point time furnishes a *prima facie* mitigating factor to the effect that the possibility of a prior amorous relationship between the victim and the accused cannot be ruled out. However, it will be decided in the trial whether there was such a relation. Irrespective of such relation, it is found that the allegations against the petitioner are serious.
6. However, since the trial is already under way, we are inclined not to further incarcerate the petitioner subject, however, to stringent conditions.
7. Accordingly, CRM (DB) 573 of 2023 is allowed, thereby granting bail to the petitioner on condition that the petitioner shall furnish a bond of Rs. 10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Special Court (under

POCSO Act) at Jalpaiguri. The petitioner shall not leave the territorial jurisdiction of the Trial Court during the entire period of trial and shall attend on each and every date of trial.

8. Moreover, the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade such person from disclosing such facts to the court or to any police officer or tamper with evidence in any manner whatsoever.
9. Further, the petitioner shall not enter the territorial jurisdiction of the police station where the victim resides throughout the period of trial and shall not, in any manner whatsoever, attempt to contact the victim and/or her near relatives. In default of any of the above conditions, the bail granted to the petitioner shall be cancelled upon giving an opportunity of hearing to the petitioner.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)