

10.01.2024.
49.
Ct.No.28
as
(Rejected)

C.R.M. (DB) 60 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Medinipur All Women P.S. Case No.67 of 2023 dated 25.06.2023 under Sections 376(3)/506 of the Indian Penal Code and Section 4 of the POCSO Act and charge sheet submitted under Section 376AB of the Indian Penal Code read with Section 6 of the POCSO Act.

In the matter of : **Suratha Kumar Malik.**

... Petitioner.

Ms. Jhuma Sen,
Mr. Dinesh Vishwakarma,
Ms. Arpita De.

...for the Petitioner.

Mr. Debasish Roy, Id. P.P.,
Mr. Rudradipta Nandy, Id. A.P.P.,
Mr. Rafikul Islam.

...for the State.

Mr. Soumyajit Das Mahapatra.

...for the Victim.

1. Petitioner is an Assistant Professor of Vidyasagar University. Victim is the minor daughter of his colleague. He contends due to professional rivalry, he has been falsely implicated in the offence. He is a family man and has minor children. Due to his incarceration, his livelihood has been severely impaired and untelling misery has befallen his family members. Allegations of rape are patently absurd and inherently improbable. He is in custody for six months. Accordingly, he prays for bail.

2. Learned Advocate for the State opposes the bail prayer. He submits that the petitioner had entered into the bathroom and violated the child. Her deposition in Court corroborates the prosecution case. Other materials

including the statement of the daughter of the petitioner has corroborated the victim.

3. Learned Advocate for the de-facto complainant submits petitioner had intimidated the victim and her family members. General Diary was registered. There are ample evidence implicating the petitioner in the crime. Other vulnerable witnesses are yet to be examined. He opposes the bail prayer.

4. Instant case involves a sex crime against a minor child. Petitioner was the colleague of the father of the child. It is alleged in the FIR that the minor had gone to play with the daughter of the petitioner. Petitioner also participated in the game. In the course of play, victim entered the bathroom. Taking advantage of the situation, petitioner is alleged to have gone inside the bathroom and poked her private parts. Deposition of the victim supports the prosecution case. Statement of the daughter of the petitioner also shows that petitioner was inside the bathroom with the victim.

5. In view of the aforesaid materials, it cannot be said that there is no evidence in support of the prosecution case. That apart, it is upon the petitioner to rebut the statutory presumption in law. Other vulnerable witnesses are yet to be examined.

6. In this backdrop, we are not inclined to accede to the plea of the petitioner that his release on bail is necessary for him to pursue his employment or with assuage the adverse impact on his family members.

7. Considering the gravity of the crime and the evidence on record, we are not inclined to grant bail to the petitioner at this stage.

8. Accordingly, the prayer for bail of petitioner is rejected.

9. We request the trial court to conduct the trial with utmost expedition keeping in mind the mandate under Section 35 (2) of the POCSO Act and conclude the same at an early date preferably within six months from the next date fixed for recording evidence without granting unnecessary adjournment to either of the parties.

10. Parties shall co-operate with the trial court in that regard and communicate this order to the trial court for due compliance.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)