

11.06.2024
Item no. 19.
Court No.28.
AB
(Allowed)

CRM (DB) 1421 of 2024

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure in connection with Indpur Police Station Case No.20 of 2023 Dated 9.3.2023 under Sections 363/366 of the Indian Penal Code read with Section 4(2) of the POCSO Act

And

In the matter of : Prasenjit Roy

.....Petitioner.

Mr. Arkaprabho Royfor the Petitioner.

Mr. Soumik Ganguly,
Mr. J. I. Hossainfor the State.

Mr. Anish Royfor the Victim Girl.

The charge is under Sections 363/366 of the IPC read with Section 4(2) of the Protection of Children from Sexual Offences Act, 2012. Apparently, the petitioner was about 22 years old at the time of the alleged occurrence and the victim girl was about 14 years old.

The petitioner says that there was an affair between him and the victim girl. The petitioner did not do anything forcibly. No sexual relationship was entered into by and between the petitioner and the victim girl. The charge under the POCSO Act is totally without substance. He is in custody for one year and three months. Only 5 out of 18 witnesses have been examined. Nobody can say when the trial will conclude. He

should be enlarged on bail on such conditions as this Court may deem fit and proper.

Learned Advocate for the State produces the case diary. We have seen the statements of witnesses including the victim girl. It is significant that while being examined in-chief by the prosecution, the victim girl was declared as hostile. This naturally causes a big dent into the case of the prosecution. The medical report also does not prima facie support the prosecution case.

Learned Advocate for the victim girl also says that he does not stand in the way of granting bail to the petitioner.

In view of the aforesaid and on an overall assessment of the material on record and the lengthy detention of the petitioner, we are inclined to allow this application.

Accordingly, we direct that the petitioner, namely Prasenjit Roy shall be released on bail upon furnishing 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 Judge, Special Court under the POCSO Act at Khatra, Bankura, and on further conditions that he shall not leave the jurisdiction of the concerned police station and shall report to the Officer-in-Charge of the concerned police station once in a fortnight until further orders.

The petitioner shall appear before the trial court on every date of hearing until further orders and shall not

intimidate the witnesses and/or tamper with evidence and/or commit any cognizable offence in any manner whatsoever.

In the event the petitioner fails to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)