

51.
24-06-2024
(ct. no.28)
debajyoti
(allowed)

CRM (DB) 1473 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with Raiganj Women Police Station Case No.72 of 2023 dated 28-05-2023 under Sections 493/376/417/506 of the Indian Penal Code and Section 6 of the Protection of Children from Sexual Offences Act.

- A n d -

In the matter of : Jewel Sarkar @ Juwel Sarkar

.... Petitioner.

Mr. Milon Mukherjee, Sr. Adv.,
Mr. Aritra Bhattacharya

... For the Petitioner.

Mr. Rana Mukherjee,
Mr. Aslam Parvez

... For the State.

The allegation is of rape. Section 6 of the POCSO Act has also been invoked.

However, from the records we find that the FIR was lodged on May 28, 2023. The date of occurrence is not noted in the FIR. In the statement of the victim girl recorded under Section 161 of the Code of Criminal Procedure, she said that the incident was of December, 2021. If that be so, the FIR was lodged two and a half years later.

We also find from records that at three places, three dates of birth of the victim girl have been mentioned. Going by each and all of them, in December, 2021, the victim girl would be a major. Therefore, POCSO Act may not apply.

Be that as it may, we find that investigation is complete and charge sheet has been submitted in April, 2024. The petitioner is in custody for 113 days. We are of the view that further detention of the petitioner may not be necessary so long as he complies with the following conditions of bail.

Accordingly, we direct that the petitioner, namely, **Jewel Sarkar @ Juwel Sarkar**, shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand), with two sureties of like amount each, one of whom must be local, to the satisfaction of learned Judge, Special Court under POCSO Act, Raiganj, Uttar Dinajpur. 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 in any manner whatsoever. The petitioner shall not enter the jurisdiction of the police station where the victim girl resides and shall report to the Officer-in-Charge of Raiganj Women Police Station once every fortnight until further orders.

In the event the petitioner fails to appear before the trial Court without justifiable cause, the trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

The application for bail being CRM (DB) 1473 of 2024 is, thus, **allowed**.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

Criminal Section is directed to supply certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)