

12.
Court
No.28

04.07.2024

(Tanmoy)

Allowed

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (DB) 1811 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 / Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with Special POCSO case No. 6 of 2024 arising out of **Kumarganj Police Station Case No.16 of 2024** dated **10.01.2024** under Section **6** of the Protection of Children from Sexual Offences (POCSO) Act, 2012. Charge-sheet No. 114 of 2024 dated 09.05.2024 under Section **6** of the POCSO Act read with Section **9** of the Child Marriage Act.

And

In the matter of: - **Raihan Mondal @ Raihan Mandal**

...petitioner.

Mr. Kaushik Choudhury, Adv.,
Ms. Busra Khatun, Adv.

...for the petitioner.

Mr. S.S. Imam, Adv.,
Mr. Debanshu Ghorai, Adv.

...for the State.

Mr. Anindya Ghosh, Adv.,
Mr. Pronojit Roy, Adv.

...for the *de facto* complainant.

The petitioner is in custody for 126 days. He says that there was a love affair between him and the victim girl. They got married following the Shariyat Law. Charge-sheet has been filed. He is willing to stay with the victim girl. He should be granted bail.

Learned Advocates for the State and the *de facto* complainant oppose the prayer for bail. Our attention is drawn to the material in the case diary. It is argued that consent of the

minor has no effect in law. The victim girl has delivered a baby of which the petitioner is the father.

We see from the material in the case diary and in particular the statement of the victim girl that there appears to be an affair between the girl and the petitioner. The girl says nothing adverse against the petitioner. Investigation is complete.

On an overall assessment of the material on record and the quality and nature of the evidence so far available, we are of the view of that further custodial detention of the petitioner is not necessary.

Accordingly, we direct that the petitioner, namely, **Raihan Mondal @ Raihan Mandal** shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand), with two registered sureties of like amount each, one of whom must be local, to the satisfaction of the concerned Trial Court, subject to condition that –

- 1) The petitioner shall appear before the Trial Court on each and every date of substantive hearing subject to the provisions of Section 317 of the Code of Criminal Procedure, 1973 / Section 355 of Bharatiya Nagarik Suraksha Sanhita, 2023, and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.
- 2) The petitioner shall not enter the jurisdiction of Kumarganj Police Station, except for the purpose of attending Court proceedings, and shall also furnish the address where he will be residing to the Officer-in-

charge, Kumarganj Police Station immediately after being released on bail and shall also appear before such Officer-in-Charge, where he will be residing, once in every week until further orders.

- 3) The petitioner shall not threaten the victim girl and her family members in any manner whatsoever.

In the event the petitioner fails to adhere to any of the conditions stipulated above without any 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 being CRM (DB) 1811 of 2024 is accordingly disposed of.

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

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)