

22.07.2024
Item no.19.
Court No.28.
S. De
(Allowed)

CRM (DB) No. 2086 of 2024

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure in connection with English Bazar Women Police Station Case No. 243 of 2021 dated 10.12.2021 under Section 6/17 of the Protection of Children from Sexual Offences Act, 2012 & Section 120B/506 of the Indian Penal Code, 1860.

And

**In the matter of : Samim Mia @ Samim Sk. @ Samim
Aktar @ Matibur Sk. @ Matiur Rahaman .**

.....Petitioner.

Md. Wasim Akram,
Ms. Reshmi Khatun,for the Petitioner.

Ms. Sayanti Santra,
Ms. Sonali Bhar,for the State.

Dictated by Partha Sarathi Sen, J.

Service report filed on behalf of the State be kept with the records.

In support of the application for bail, learned advocate for the accused petitioner submits before this Court that the present accused petitioner is languishing in judicial custody for the last 2 years 1 month and 20 days. In course of his submission, learned advocate for the petitioner draws our attention to the written complaint as lodged in this case, the deposition of the victim as recorded on March 17, 2023 as well as the deposition of the doctor before whom the victim was produced immediately after the alleged incident for medical

examination. It is submitted that considering the period of detention and also considering the fact that the present accused petitioner is not the principal accused as reveals from the deposition of the victim girl, the instant application for bail may be considered favourably.

Prayer for bail is opposed on behalf of the State.

We have meticulously gone through the entire materials as placed before us including the deposition of the victim and the deposition of the other prosecution witnesses as recorded so far. Admittedly, we find some discrepancy with regard to the involvement of the present accused petitioner in the alleged crime. The present accused petitioner is languishing in judicial custody for considerable length of time. There is no certainty as to when the trial will be concluded. Vital witnesses have already been examined.

In view of the same, we do not find any reason to keep the present accused petitioner in further custody. Accordingly, we allow the prayer for bail.

Accordingly, we direct that the petitioner, namely **Samim Mia @ Samim Sk. @ Samim Aktar @ Matibur Sk @ Matiur Rahaman** 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 POCSO Act), Malda on condition that the present accused petitioner shall appear before the Trial court on each date of substantive hearing subject to the provisions of

Section 317 Cr.P.C. 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.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Partha Sarathi Sen, J.)

(Arijit Banerjee, J.)