

CRM (DB) 2215 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Madhyamgram Police Station** Case No. **138 of 2023** dated **02.03.2023** under Sections **376(3)** of the Indian Penal Code and Sections 4/6 of the POCSO Act.

- A n d -

In the matter of : Bikash Halder

.... Petitioner.

Mr. Sumanta Chakraborty,

... for the petitioner.

Ms. Nandini Chatterjee,

... For the defacto complainant.

Mr. Debasish Roy, Ld PP,

Mr. Arijit Ganguly,

Mr. Koushik Kundu,

... For the State.

Order dictated by Partha Sarathi Sen, J.

Affidavit of service filed in Court today be kept with the records.

In support of this application for bail, learned Advocate for the petitioner at the very outset draws our attention to the written complaint as lodged in this case, to the statement of the victim as recorded under Section 164 of the Code of Criminal Procedure as well as to the examination in chief of the victim girl (PW 1). It is also submitted that there are material variance in the written complaint, the statement mentioned above and the examination in chief of PW 1. It is further submitted that considering the fact that the present accused-petitioner has been languishing in jail for one

year four months and eighteen days, the instant application may be allowed.

Learned Advocate for the State as also learned Advocate for the informant opposes the prayer for bail.

On perusal of the entire materials placed before us, we find some merit in the submission of learned Advocate for the petitioner. We also notice that material witnesses have been examined. We have also considered the long detention of the present accused-petitioner. We also find that there is least possibility of conclusion of trial within a shortest possible date.

Considering such circumstances we are inclined to allow the petitioner's prayer for bail.

Accordingly, we direct that the petitioner, namely, **Bikash Halder**, 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 Special Judge, under the POCSO Act, Barasat, North 24 Parganas 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 subject to the provisions of Section 317 Cr. P. C. until further orders and shall not intimidate the witnesses and/or tamper with evidence 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.)