

03.09.2024
Item no. 14.
Court No.28.
AB
(Allowed)

CRM (DB) 2477 of 2024

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure, 1973/Under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Hemtabad Police Station Case No.272 of 2023 Dated 21.11.2023 under Section 6 of the POCSO Act

And

In the matter of : Shri Birendra Nath BarmanPetitioner.

Mr. Golam Mustafa,
Mr. Samirul Sardarfor the Petitioner.

Mr. Monoranjan Mahatofor the State.

Dictated by Prasenjit Biswas, J.

1. Service report filed on behalf of the State is taken on record.
2. It is contended that the petitioner is in custody for 280 days. It is further submitted that this petitioner is absolutely innocent and has been falsely entangled with the crime. It is also said by the learned Counsel that at the time of alleged incident, the victim was three months' pregnant and as such, there is a doubt about the nexus of the accused petitioner with the alleged offence.
3. Learned Counsel appearing for the State raises vehement objection submitting that there are sufficient incriminating materials gathered in the case diary,

which shows prima facie involvement of this petitioner in the alleged offence.

4. Our attention is drawn by the learned Counsel for the State to the statement of the victim recorded under Section 164 Cr.P.C. as well as the medical document collected by the Investigating Agency during the course of investigation.
5. We have considered the rival submissions advanced by the parties and perused the documents as annexed with the case diary. After completion of investigation, the Investigating Agency submitted charge sheet, but the charge has not yet been framed by the learned Trial Court and there is no scope for early hearing of this case. After considering the materials in the case diary, we are inclined to allow the petitioner's prayer for bail.
6. Accordingly, we direct that the petitioner, namely **Shri Birendra Nath Barman** 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 Raiganj, Uttar Dinajpur, 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.
7. 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.

8. 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.
9. The application for bail is, accordingly, allowed.
10. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Arijit Banerjee, J.)

(Prasenjit Biswas, J.)