

39. 19.09.2024
Court
No.28 (Tanmoy)

Allowed

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (DB) 2798 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 **English Bazar** Police Station Case **No.82/2024** dated **15.01.2024** under Section **6** of POCSO Act, 2012.
And

In the matter of: - **Dilip Chowdhury & Anr.**

Mr. Mazahar Hossain Chowdhury ...petitioners.
Mr. Arindom Sen ...for the petitioners.
Ms. Snigdha Saha ...for the State.

Dictated by Arijit Banerjee, J.

1. Service report filed by the State be kept with the records.
2. In spite of service nobody appears for the *de facto* complainant/victim girl.
3. The petitioners say that there are inconsistencies in the statements of the survivor girl recorded under Sections 161/164 of the Code of Criminal Procedure, 1973. Now the victim girl has also been examined by the learned Trial Court. She has exonerated the petitioners and has been declared hostile by the prosecution. They pray for bail.
4. Learned Advocate for the State, while opposing the prayer for bail, does not dispute the aforesaid facts. Hence, we are inclined allow the petitioners' prayer for bail.
5. Accordingly, we direct that the petitioners, namely, **1. Dilip Chowdhury, 2. Gabinda Halder** shall be released on bail

upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand) each, 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-cum-learned Additional Sessions Judge, 2nd Court, Malda, subject to condition that the petitioners 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.

6. In the event the petitioners fail to adhere to any of the conditions stipulated above without any justifiable cause, the Trial Court shall be at liberty to cancel their bail in accordance with law without further reference to this Court.
7. The application for bail being CRM (DB) 2798 of 2024 is accordingly disposed of.
8. 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.)