

39.
25-09-2024
(ct. no.28)
debajyoti
(allowed)

CRM (DB) 2933 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure/483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Kaliachak Police Station Case No.854 of 2022 dated 06-08-2022 under Section 6 of the Protection Of Children from Sexual Offences Act.

- A n d -

In the matter of : Sukumar Mahara

.... Petitioner.

Mr. Md. Wasim Akram,
Ms. Reshmi Khatun

... For the Petitioner.

Mr. Bidyut Kumar Roy,
Mr. Debanik Das

... For the State.

Dictated by Arijit Banerjee, J.

Affidavit-of-Service filed in Court today be taken on record. From the Affidavit-of-Service, it appears that the defacto complainant has received notice of this bail application. However, nobody appears on behalf of the defacto complainant.

The petitioner says that he is in custody for around two years two months. He has been falsely implicated due to a land dispute. All the vulnerable witnesses have been examined. His continued detention in custody is unnecessary. He renews his prayer for bail, which was lastly rejected on June 06, 2023, on the ground that only three out of fourteen charge sheet named witnesses have been

examined and there is no certainty of early conclusion of the trial.

Opposing the prayer for bail, learned advocate for the State draws our attention to the material in the Case Diary. We have seen the statement of the victim girl recorded under Section 164 of the Code of Criminal Procedure. Medical examination was declined by the victim.

On an overall consideration of the material on record and considering that vulnerable witnesses have already been examined and that there is little chance of the trial concluding on an early date, we are of the view that further custodial detention of the petitioner is not necessary.

Accordingly, we direct that the petitioner, namely, **Sukumar Mahara**, shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand), with two sureties of like amount each, one of whom must be local, to the satisfaction of learned Judge, Special Court under POCSO Act, Additional District Judge, 2nd Court, Malda. The petitioner shall appear before the trial Court on every date of hearing and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever. The petitioner shall not enter the jurisdiction of Kaliachak Police Station except for the purposes of attending the court proceedings and meeting the Officer-in-Charge/Inspector-in-Charge of the jurisdictional police station and shall inform, through his learned advocate, the learned trial Court and Officer-in-Charge/Inspector-in-Charge of Kaliachak Police Station his current local address where he shall be residing while on bail. The petitioner shall report to the Officer-in-Charge/Inspector-in-Charge of the jurisdictional police station once in a week, until further orders.

In the event the petitioner fails to comply with any of the conditions stipulated above, the trial Court shall be at

liberty to cancel his bail in accordance with law without further reference to this Court.

The application for bail being CRM (DB) 2933 of 2024 is, thus, **allowed**.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

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

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)