

29.11.2024
Item no.11.
Court No.29.
S. De
(Allowed)

CRM (DB) No. 2954 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure corresponding to Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with **Jhalda Police Station Case No. 38 of 2024** dated **25.02.2024** under **Sections 6 and 17** of the Protection of Children from Sexual Offences Act (POCSO), 2012.

And

In the matter of : Birshing Mahato & Anr.

.....Petitioners.

Mr. Soumik Gangully,
Mr. Satyajit Mahata,for the Petitioners.

Mr. Bitashok Banerjee,
Mr. Ronit Mukherjee,for the State

Dictated by Arijit Banerjee, J.

1. The petitioners say that they have no role to play in the alleged offence of rape. Even going by the statement of the victim girl recorded under Section 164 Cr.P.C., at best the petitioners may have been present at the place of occurrence. The prime accused, Dhepka Mahato and Ram Mahato have been granted bail by the learned Trial Court. Ram had actually aided and abetted the commission of the alleged offence by keeping the victim silent by covering her mouth with his hand. They say that the petitioners are in custody for 275 days. Investigation is complete. They should be granted bail.

2. Opposing the prayer, learned State advocate says that these petitioners were very much present at the scene of the crime. They had a duty to prevent the actual perpetrator. Section 17 of the POCSO Act has been invoked. The petitioners aided and abetted the commission of the crime.
3. We have considered the facts and circumstances of the case and the material on record. Prima facie, we do not find any active involvement of the petitioners in the alleged offence. Therefore, also considering that they have been in custody for quite some time and Ram Mahato, a co-accused standing on a much worse footing than these petitioners, has been granted bail, we are inclined to grant bail to the petitioners.
4. Accordingly, we direct that the petitioners, namely, **Birshing Mahato** and **Debasish Mahato @ Natabar @ Nata** shall be released on bail upon furnishing a bond of Rs.10,000/- 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), Purulia subject to the conditions that they 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.

5. The petitioners 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 in any manner whatsoever.
6. In the event the petitioners fail to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioners' bail in accordance with law without further reference to this court.
7. The application for bail is, accordingly, allowed.
8. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)