

Item No.3

Ct.No.34

rc.

Allowed

C.R.M. (SB) 121 of 2024

In Re : An Application for bail under Section 439 of the Code of Criminal Procedure filed in connection with Technocity Police Station Case No. 128 of 2024 dated 23.08.2024 under Sections 188/363/365/368/506/34 of the Indian Penal Code.

And

In Re : **(1) Sayantan Sarkar**
 (2) Paritosh Chandra Sarkar
 (3) Smt. Supriya Sarkar

... Petitioners.

Mr. Milon Mukherjee
Mr. Arindam Sen
Mr. Pallab Kumar Mitra
Mr. Saurav Basu
Ms. Kritika Jain

Mr. Krishnendu Bhattacharjee
Mr. Rajib Mallick
Ms. Sonia Mukherjee
Mr. Deep Bairagi ...for the Defacto Complainant

Ms. Sayanti Santra
Ms. Debjani Sahu ... For the State.

It is submitted on behalf of the petitioners that visitation right was granted to the 1st petitioner who is the father of the minor, by an order passed by the learned Additional District Judge, Fast Track 2nd Court, Barasat on October 17, 2023, in Misc. Case (Act-VIII) No. 322 of 2022 at Axis Mall, New Town, Kolkata on Sunday of every week

between 11.30 A.M. to 02.30 P.M. On May 12, 2024 the 1st petitioner, while visiting the child at the house of the defacto complainant/ wife of the 1st petitioner on request of the defacto complainant/ wife of the 1st petitioner took away the child with him for which the defacto complainant/ mother of the child filed Habeas Corpus application being WPA(H) No. 68 of 2024 requesting custody of the child. The child has been recovered and is presently in custody of the defacto complainant/ mother of the child . The petitioners are in custody for 14 days and seek bail.

Learned counsel for the State produces the Case Diary including the statement of the child under Section 164 of the Code of Criminal Procedure and opposes the prayer for bail.

Learned counsel for the defacto complainant/ mother of the child appears before this Court and vehemently opposes the prayer for bail. Learned counsel submits that the child was forcibly taken away by the 1st petitioner in connivance with the other petitioners and could not be traced out for which stringent orders were passed by the Hon'ble Division Bench of this Court in the Habeas Corpus application. The present complaint has been lodged in terms of the order passed by the Hon'ble Division Bench.

I have considered the submission made on behalf of the parties as well as material on record.

It is not in dispute that the child was taken away by the 1st petitioner from the house of the defacto complainant/ wife of the 1st petitioner. The child has been recovered and possession restored to her mother/defacto complainant.

Statement of the child has been recorded under Section 164 of the Code. The petitioners are in custody for 14 days. Prima facie involvement of the 2nd and 3rd petitioners who are the parents of the 1st petitioner is not found in the Case Diary. Upon consideration of the nature of the offence, period of detention of the petitioners as well as material available in the Case Diary, particularly statement of the child under Section 164 of the Code, this Court is inclined to hold that further detention of the petitioners is not required for the purpose of custodial interrogation.

Accordingly, prayer for bail is allowed.

Petitioners be released on bail upon furnishing bond of Rs.10,000/- (Rupees Ten Thousand only) each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Barasat subject to condition that the 1st petitioner shall meet the Investigating Officer of the case once in a week till completion of the investigation. The petitioners shall cooperate in investigation of the case.

The application for bail, being CRM (SB) 121 of 2024, is, thus, disposed of.

Case Diary be returned.

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

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)