

29.
19-12-2024
(ct. no.29)
debajyoti
(allowed)

CRM (DB) 3141 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 Nischinda Police Station Case No.176 of 2023 dated 26-09-2023 under Sections 4/6/8 of the Protection of Children from Sexual Offences Act.

- A n d -

In the matter of : Debasish Sarkar

.... Petitioner.

Mr. Amitabha Karmakar,
Mr. Arnab Kumar Neogi,
Mr. Anirban Saha

... For the Petitioner.

Ms. Sayanti Santra,
Ms. Debadrita Mondal

... For the State.

Dictated by Arijit Banerjee, J.

1. Service Report filed by the State be kept with the records. In spite of service, nobody appears on behalf of the defacto complainant/victim.

2. The petitioner is the maternal uncle (*Mesho*) of the victim girl. He says that he has been falsely implicated because of some property dispute. He is in custody for 1 year 3 months. Only one out of seven charge sheet named witnesses has been examined. There is no possibility of an early conclusion of the trial. The next date is March 17, 2025. He prays for bail.

3. Opposing the prayer, learned State advocate draws our attention to the deposition of the victim girl as also to the

medical report. Although the victim girl's deposition *prima facie* implicates the petitioner, the medical report is incomprehensible. It cannot be said that the medical report supports the prosecution case.

4. *Prima facie*, it appears that the possibility of the petitioner being embroiled in a false case cannot be ruled out. The victim girl has already been examined. The petitioner is in custody for an appreciable period of time.

5. On an overall consideration of the facts and circumstances of the case and seeing that an early conclusion of the trial is a distant possibility, we are inclined to allow the petitioner's prayer for bail.

6. Accordingly, we direct that the petitioner, namely, **Debasish Sarkar**, 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, POCSO Act, Howrah. The petitioner shall appear before the learned 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. The petitioner shall not enter the jurisdiction of Nischinda Police Station except for attending the court, until further orders, and shall inform, through his learned advocate, the learned trial Court and the Officer-in-Charge/Inspector-in-Charge of Nischinda Police Station his current local address where he shall be residing while on bail and shall report to the Officer-in-Charge/Inspector-in-Charge of the said jurisdictional police station where he shall be residing while on bail once in a week, until further orders.

7. In the event the petitioner fails to comply with any of the conditions stipulated above without any justifiable cause,

the learned trial Court shall be at liberty to cancel the bail in accordance with law without further reference to this Court.

8. The application for bail is, thus, **allowed**.

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

10. 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.)