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04-12-2024
(ct. no.29)
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CRM (DB) 3336 of 2024

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure as amended under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

And

In the matter of : Sukumar Chakraborty.

.....Petitioner.

Mr. Sakya Sen, Sr. Adv.,
Mr. Suryasarathi Basu,
Mr. Rahul Banerjee, ...for the petitioner.

Mr. Rudradipta Nandy, Ld. APP,
Mr. Rana Mukherjee,
Mr. Sujoy Sarkar,for the State.

Mr. Debashis Banerjee,
Mr. Rakesh Jana, ...for the West Bengal Protection of
Commission for Protection of Child Rights.

Mr. Mit Guha Roy, ...for the victim girl.

Dictated by Arijit Banerjee, J.

1. The petitioner says that he has been falsely implicated. He is the Principal of the concerned blind school. One Saibal Guha who was the treasurer of the school was rusticated from the governing body because of he having ill-treated other teachers and inmates of the blind school. At the instigation of Saibal, this false complaint has been lodged against the petitioner after 14 years of the alleged incident.
2. The petitioner says that he is in custody for about 8 months. He is hundred per cent visually impaired. Chargesheet has been filed upon completion of investigation. Hence, he should be enlarged on bail.
3. Learned advocates for the State and the de facto complainant raised vehement objection to the petitioner's prayer. They drew our attention to the material in the case diary including

the statement of the main victim girl. She clearly implicates this petitioner. The medical report, prima facie, supports the prosecution case. We have also seen the statements of other victim girls recorded under Section 164 Cr.P.C. The State also says that although chargesheet has been filed, further investigation is in progress. Further, incriminating evidence is being unearthed in course of such investigation.

4. Mr. Sen, learned advocate for the petitioner argues that if one looks at the facts of the case and the allegations, POCSO Act will not apply at all. According to him, when the offence was committed as per the prosecution case, either the POCSO Act had not come into force or the victim had become major. This is a point which the petitioner will be at liberty to urge before the learned Trial Court. There is some controversy on this point as the State says that the records of the blind school which reflect the age of the victim have been tampered with and a date of birth of the victim has been incorporated in the records to suit the defence of the petitioner.
5. We are also not able to understand as to why the petitioner will be falsely implicated. Saibal was expelled by one Amio Roy who was the President of the governing body of the school. We would have thought that if Saibal was to engineer a false criminal complaint, his obvious target would be Amio Roy and not Sukumar, the petitioner herein.
6. On an overall assessment of the facts on record and the material in the case diary and given the gravity and nature of the allegations, we are not inclined to allow the petitioner's prayer, at this stage.

7. CRM (DB) 3336 of 2024 is dismissed.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)