

04.12.2024
Item no. 31.
Court No.29.
AB
(Allowed)

CRM (DB) 3345 of 2024

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure, 1973/Under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Bhagwangola Police Station Case No.211 of 2023 Dated 16.05.2023 under Sections 342/376AB of the Indian Penal Code read with Section 6 of the POCSO Act

And

In the matter of : Nanda Mandal

.....Petitioner.

Mr. S. Das Mahapatra,
Md. G. N. Imrohi,
Ms. Madhurai Sinhafor the Petitioner.

Mr. Kunal Gangulyfor the State.

Mr. Abhinav Rakshitfor the Defacto complainant.

Dictated by Arijit Banerjee, J.

1. Status report filed by the State, be kept with the records.
2. Learned Advocates for the State as well as the defacto complainant strongly oppose the prayer for bail.
3. We have considered the depositions of the witnesses so far examined including the victim girl. The petitioner prima facie may have some substance in his argument that the charge could be at the highest under Section 8 of the Protection of Children from the Sexual Offences Act and not under Section 6.
4. Apart from the merits we see that 6 out of 19 charge sheet named witnesses have been examined. The

petitioner is in custody for more than one and half years. Early conclusion of the trial is highly unlikely.

5. Without commenting further on merits, solely on the touchstone of Article 21 of the Constitution of India, we are inclined to allow the petitioner's prayer for bail.
6. Accordingly, we direct that the petitioner, namely **NANDA MANDAL** shall be released on bail upon furnishing a bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the POCSO Act at Lalbagh, Murshidabad, and on further conditions that he shall not leave the municipal limits of Kolkata except for attending the court proceedings and shall provide the address where he shall presently reside to the Officer in Charge of the concerned police station and shall meet the Officer in Charge of the concerned police station within whose jurisdiction he shall presently reside once in a fortnight until further orders.
7. The petitioner 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 and/or commit any cognizable offence in any manner whatsoever.
8. In the event the petitioner fails to adhere to any of the conditions stipulated above without justifiable cause,

the trial court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this Court.

9. The application for bail is, accordingly, allowed.
10. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)