

45.
04-12-2024
(ct. no.29)
debajyoti
(allowed)

CRM (DB) 3488 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 Habra Police Station Case No.198 of 2023 dated 06-03-2023 under Sections 376/511 of the Indian Penal Code and under Sections 8/12 of the Protection of Children from Sexual Offences Act..

- A n d -

In the matter of : Md. Mojahid Islam @ Sabur @ Sabur Ali
.... Petitioner.

Mr. Sagar Saha,
Mr. Manojit Debnath

... For the Petitioner.

Mr. Sujan Chatterjee

... 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 says that he has been falsely implicated. There are inconsistencies between the statements recorded by the victim girl under Sections 161/164 of the Code of Criminal Procedure. While in the statement recorded under Section 161, she said that the petitioner was about to commit the alleged offence, in Section 164 statement, she improved the statement and said that the petitioner committed the offence. In her deposition recorded before the learned trial Court, the victim girl stated that the petitioner did indecent things with her. There is nothing significant in

the medical report which would *prima facie* support the prosecution case.

3. In any event, the petitioner has been in custody for 1 year 9 months. Only 1 out of 19 charge sheet named witnesses have been examined. We see no possibility of an early conclusion of the trial.

4. On merits as well as on the touchstone of Article 21 of the Constitution of India, we are inclined to allow the petitioner's prayer for bail.

5. Accordingly, we direct that the petitioner, namely, **Md. Mojahid Islam @ Sabur @ Sabur Ali**, 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 Chief Judicial Magistrate, Barasat. 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 remain within the jurisdiction of Barasat Police Station and shall report to the Officer-in-Charge/Inspector-in-Charge of the said police station once in a week, until further orders.

6. 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.

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

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

9. 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.)