

19.12.2024
Item no.50.
Court No.29.
S. De
(Allowed)

CRM (DB) No. 3545 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure corresponding to Section 483 of the Bharatiya Nagarik Suraksha Sanhita 2023, in connection with **Habra Police Station Case No. 449 of 2023** dated **16.05.2023** under **Sections 376(2)(f)/376(3)/506 of the Indian Penal Code** and **Section 4** of the Protection of Children from Sexual Offences Act (POCSO), 2012.

And

In the matter of : Sandip Biswas.

.....Petitioner.

Ms. Somdyuti Parekh,
Mr. Pabitra Biswas,for the Petitioner.

Mr. Subhomoy Bhattacharyya,
Mr. Asif Dewan,for the State

Mr. Subhrajyoti Ghosh,
Ms. Sudipa Sen Gupta, ...for the de facto complainant.

Dictated by Apurba Sinha Ray, J.

1. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case due to marital discord. He is in custody for about 1 year and 7 months. As investigation is complete and the deposition of the de facto complainant and the victim girl is over, he may be enlarged on bail on any condition.
2. Learned counsel for the State opposes the prayer for bail.
3. Learned counsel for the de facto complainant Ms. Sudipa Sen submits that there is a

misunderstanding between her client and the petitioner and there was certainly a marital discord and that is why her client being the de facto complainant has initiated this proceeding. However, the matter has been settled. She has no objection if the petitioner is enlarged on bail.

4. We have considered the materials on record. It appears from the medical report that there is nothing in the said report to support the allegation as contained in FIR. However, it is clear that the petitioner has been falsely implicated by the de facto complainant and for which the petitioner is in custody for about 1 year and 7 months for no fault of his own.
5. We are, accordingly, inclined to allow the prayer for bail of the petitioner on personal bond.
6. Accordingly, we direct that the petitioner, namely, **Sandip Biswas** shall be released on bail upon furnishing a personal bond of Rs.10,000/-, without surety.
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 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. The learned Judge, Special POCSO Court, Barasat, may consider initiation of proceeding against the de facto complainant under Section 340 Cr.P.C. (Section 379 B.N.S.S.) for fabricating false evidence under Section 192 and Section 193 of Indian Penal Code (under Section 228 and 229 B.N.S.S.), and may take appropriate steps after due enquiry.
11. Let a copy of this ordersheet be sent to the learned Judge, Special POCSO Court, Barasat.
12. Learned Registrar General is requested to communicate this order to the learned Trial Court.
13. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)