

CRM (DB) 3629 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure/Section 483 of the BNSS in connection with **Gazole Police Station** Case No. **732 of 2023** dated **13.09.2023** under Sections **376(2)(n)/506** of the Indian Penal Code and Sections 6/12 of the POCSO Act.

- A n d -

In the matter of : Bipul Sarkar @ Bipul Kumar Sarkar

.... Petitioner.

Mr. Amitabha Karmakar,
Mr. Arup Kumar Bhowmick,

... For the Petitioner.

Mr. Subhomoy Bhattacharyya,
Mr. B. Mitra,

... For the State.

Mr. Anupam Ghosh,

....for the defacto complainant.

Order dictated by Apurba Sinha Ray, J.:

1. Learned Advocate for the petitioner submits that the petitioner is in custody for almost one year two months. He has been falsely implicated in this case. Deposition of the victim has already been recorded. The victim refused medical examination. Though there was an allegation of uploading obscene pictures in the social media, there is no investigation on that aspect. Considering his period of detention, the petitioner may be enlarged on bail on any condition.

2. Learned Advocates for the State as also the defacto complainant say that there are sufficient materials against the present petitioner. The victim has clearly narrated before the learned Trial Court that she has been ravished by the present petitioner and her obscene pictures were uploaded in social media.

3. We have considered the materials on record. We find that the victim was medically examined and no injury was found in her private parts. *Prima facie* it shows that the medical report does not support the prosecution case.

4. Considering the period of detention and also the fact that there is no chance of an early conclusion of the trial since there are 12 more witnesses who are yet to be examined by the prosecution, we are inclined to enlarge the petitioner on bail.

5. Accordingly, we direct that the petitioner, namely, **Bipul Sarkar @ Bipul Kumar Sarkar**, 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 Special Judge under the POCSO Act, Malda subject to condition that he shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever and on further condition that the petitioner while on bail shall remain within the jurisdiction of English Bazar Police Station and shall meet the I.C. of the said police station once in a week until further orders.

6. 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.

7. The application for bail is, accordingly, allowed.

8. 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.)**