

**THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI**

15.05.2024.
7/tkm

C.R.A. (DB) 10 of 2024

In Re:- An appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 in connection with Matelli PS dated 18.4.2022 under section 6 of the POCSO Act read with section 376AB/306 IPC read with section 3(i)(xi)(xii) of SC & ST (Prevention of Atrocities) Act

and

In the matter of : Rahlim Sk @ Sekh ... appellant

Mr. J K Bhowmik
Mr. S Bhowmik
Mr. S Kumar
Ms. Rikta Sarkar
Ms. Sayantani Das

...for the appellant

Mr. A S Chakraborty, Id APP
Mr. Biswarup Roy

...for the State.

1. It is alleged there was an illicit relationship between the appellant and the mother of the victim. Father of the victim used to work in Mumbai. On 28th March 2022 mother of the victim committed suicide. Thereafter, the present case was lodged alleging that the appellant had sexually violated the victim. Allegations are out and out false and concocted. Appellant is in custody for more than 757 days. Witnesses have not yet been examined. Accordingly, he prays for bail.

2. Learned lawyer for the State opposes the bail prayer. He contends father of the victim used to work in Mumbai. Taking advantage of the situation, appellant developed illicit relationship with the mother of the victim and had also raped the minor daughter. Mother committed suicide and

the minor disclosed the incident to her father. Minor is yet to be examined.

3. We have considered the materials on record. We have also considered the statement of the minor victim. She alleged that there was illicit relationship between the appellant and her mother. She also stated appellant had forcibly raped her on a number of occasions and threatened her. It is unclear why the minor did not confide the incident to her mother. Only after she committed suicide she disclosed the incident to her father resulting in registration of FIR.

4. Appellant contends father of the victim was enraged coming to know of the illicit relationship between the appellant and his deceased wife. In order to falsely implicate the appellant, he made out a case of rape of his minor daughter. Credibility of the rival versions requires to be assessed during trial. Appellant is in custody for more than two years and no witness has been examined till date.

5. Under such circumstances, we are inclined to grant bail to the appellant however subject to conditions.

6. Accordingly, the appellant 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 POCSO Act, Malbazar, Jalpaiguri on condition that the appellant shall appear before the trial court on every date of hearing and

shall not intimidate witnesses or tamper with evidence in any manner whatsoever and on further condition that the appellant while on bail shall not enter the jurisdiction of Matelli P.S. till examination of the minor victim and shall report to the concerned officer in charge within whose jurisdiction he shall reside once in a week until further orders and shall provide the address where he shall presently reside to the investigating officer as well as court below.

7. In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

8. The application being CRA (DB) 10 of 2024 is disposed of.

(Ajay Kumar Gupta,J.)

(Joymalya Bagchi, J.)