

Court No. 1

29.04.2024

(JCB 33)

(S. Banerjee)

Calcutta High Court

In the Circuit Bench at Jalpaiguri

Appellate Side

CRM (DB) 200 of 2024

(Allowed)

In re: ^c An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kalimpong Police Station Case No. 97 of 2023 dated 04.12.2022 under Section 6 of the Prevention of Child from Sexual Offences Act.

And

In the matter of: Karma Tshering Sherpa

...petitioner

Mr. Sourav Ganguly
Ms. Rishita Chakrabarty
Mr. Gopal Roy
Mr. Abhishek Sarkar

... for the petitioner

Mr. Ujjwal Luksom
Ms. Namrata Das

... for the State

1. Let the affidavit of service filed in court today be kept with the record.
2. In course of his submission, Mr. Ganguly, learned counsel for the petitioner draws our attention to the statement of the victim as recorded under Section 164 Cr.P.C. as well as the deposition of the PW-1, i.e., the victim, as recorded by the learned trial court in the POCSO case. It is submitted that considering the fact that there is no much incriminating materials as against the present accused-petitioner, the prayer for bail may be allowed.

3. Prayer for bail has been opposed on behalf of the State.
4. We have meticulously perused the entire materials in the case diary and the deposition of the PW-1. It reveals to us that in her statement under Section 164 Cr.P.C. the victim, who is an adolescent girl, stated that she has been forced to lodge FIR by the CWC men. It further reveals from her deposition that on account of a romantic relationship, she fled away with the present accused-petitioner, who is also an adolescent one of 18 years.
5. Prima facie we do not find any chance of tampering of evidence and/or chance of threat to the victim at the end of the present accused-petitioner. It does not appear to this court that further incarceration of the present accused-petitioner is necessary for the purpose of trial.
6. The application for bail is thus allowed.
7. Accordingly, the petitioner shall be released on bail upon furnishing a bond of Rs. 5,000/- with two registered sureties of like amount each, to the satisfaction of the Special Court under POCSO Act, Kalimpong subject to the condition that he shall regularly appear before the trial court on each and every date of hearing until further orders subject to the provision as mentioned in Section 317 Cr.P.C. and

shall not commit any threat witnesses and/or tamper with evidence in any manner whatsoever.

8. In the event the petitioner fails to appear before the trial court without any justifiable cause or violates any condition given above, the trial court shall be at liberty to cancel the bail of the petitioner in accordance with law without further reference to this court.
9. All parties shall act on the server copy of this order duly downloaded from the official website of this court.

(Soumen Sen, J.)

(Partha Sarathi Sen, J.)