

CRM (DB) 3639 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 **Manikchak Police Station** Case No. **109 of 2024** dated **09.02.2024** under Section **4** of the POCSO Act.

- A n d -

In the matter of : Samar Mandal

.... Petitioner.

Mr. Amitabha Karmakar,
Mr. Arup Kumar Bhowmick,

... For the Petitioner.

Mr. Rana Mukherjee,
Ms. D. Dasgupta,

... For the State.

Order dictated by Arijit Banerjee, J.:

1. Service report filed by the State showing service of notice on the victim girl be kept with the records.
2. In spite of service, nobody appears for the victim girl.
3. The petitioner says that he has been falsely implicated. He is in custody for about 10 months. Charge was framed in May, 2024. Witness action is yet to begin. The material on record is insufficient to justify further custodial detention of the petitioner.
4. Opposing the prayer for bail, learned State Advocate draws our attention to the statements of the victim girl recorded under Sections 161 and 164 of the Code of Criminal Procedure as well as to the medical examination report. He says that February 1, 2025 has been fixed as the date for evidence and production. All efforts will be made to expedite the trial.
5. We have considered the material on record. *Prima facie* there appears to be inconsistency between the statements of the victim girl recorded under Sections 161 and 164 of the Code of

Criminal Procedure. The medical report, *prima facie* does not support the prosecution case. There are 25 charge sheet named witnesses. Witness action has not yet begun. After framing of charge in May, 2024, there has been no progress in the trial.

6. On an overall assessment of the material on record and seeing that there is very little chance of an early conclusion of the trial, we are inclined to enlarge the petitioner on bail.

7. Accordingly, we direct that the petitioner, namely, **Samar Mandal**, 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 and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever and on further condition that the petitioner while on bail shall remain with the jurisdiction of English Bazar Police Station and shall meet the Officer-in-Charge of the concerned police station once in a fortnight until further orders.

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. 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.)**