

50.
30-01-2025
(ct. no.29)
debajyoti
(allowed)

CRM (DB) 4218 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure/483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with English Bazar Police Station Case No.30 of 2024 dated 05-01-2024 under Sections 448/323/363/365/506/34 of the Indian Penal Code read with Section 6 of the Protection of Children from Sexual Offences Act and Section 9 of the Prohibition of Child Marriage Act.

- A n d -

In the matter of : Anowar Hossain

.... Petitioner.

Mr. Md. Wasim Akram,
Ms. Sabrina Parveen

... For the Petitioner.

Mr. Joydeep Biswas,
Ms. Mamata Jana

... For the State.

Ms. Reshmi Khatun,
Mr. Abhinaba Mukherjee

... For the defacto complainant.

Dictated by Apurba Sinha Ray, J.

1. Learned advocate for the petitioner submits that the petitioner and the victim girl had a love affair and the victim fled away with the present petitioner on her own will. However, due to pressure of her relatives, this case was started. The petitioner is in custody for about nine months. Investigation is complete. As such, there is no need for further custodial detention of the present petitioner.

2. Learned advocate for the defacto complainant opposes the petitioner's prayer for bail on the ground that the consent of a minor is no consent.

3. Learned advocate for the State opposes the prayer for bail. He has drawn our attention to the statement of the victim girl recorded under Section 164 of the Code of Criminal Procedure and also one statement of the victim girl recorded under Section 161 of the Code of Criminal Procedure. Learned advocate has left the matter to the discretion of this Court.

4. We have considered the material on record, including the statement of the victim girl recorded under Section 164 as well as 161 of the Code of Criminal Procedure where the victim girl has stated that she stayed in the petitioner's house for four months. As the investigation is complete, we find that there is no need for further custodial detention of the present petitioner. The prayer of the petitioner for bail is, thus, allowed on certain conditions.

5. Accordingly, we direct that the petitioner, namely, **Anowar Hossain**, shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand), with two sureties of like amount each, one of whom must be local, to the satisfaction of learned Judge, Special Court under POCSO Act, ADJ, 2nd Court, Malda. The petitioner shall appear before the learned 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. The petitioner shall remain within the jurisdiction of local police station and shall appear before the Officer-in-

Charge/Inspector-in-Charge of the said police station once in every week, until further orders.

6. In the event the petitioner fails to adhere to any of the conditions stipulated above without any justifiable cause, the learned trial Court shall be at liberty to cancel the bail in accordance with law without further reference to this Court.

7. The application for bail is, thus, **allowed**.

8. All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

9. Criminal Section is directed to supply certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)