

Bail Application No. 06 of 2017
Pawan Kumar Agarwal v. State of Sikkim

BEFORE
BHASKAR RAJ PRADHAN, J.

11.10.17 Present: Mr. Ashwin Kumar, Mr. Sishir Mothay, Mr. Bidur R. Lepcha and Mr. Libron W. Rongong Advocates for the Petitioner.

Mr. S.K Chettri and Ms. Pollin Rai, Asst. Public Prosecutor for the State-Respondent.

Mr. Passannk Tsh. Lepcha, I.O of the present Case

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Bail Application No. 06 of 2017 has been moved today by the petitioner on the ground that the investigation being complete, there is no requirement of the petitioner to be kept in further custody. It is submitted that the petitioner has been custody since 21.07.2017 and the period of remand is over. It is further submitted that the petitioner does not have any criminal antecedents.

The application for bail is contested by the State on the ground that there are reasonable chances of tampering with the victim. To supplement his submission, the learned Counsel appearing for the State draws the attention of the Court to the allegation in the FIR which states that mother of the petitioner had come to the victim's house when she was alone and scolded her. This may be reason for the State to protect the victim.

Besides this, the learned Counsel for the State also submits that the offences alleged are heinous and therefore, bail ought not to be granted.

Admittedly, the charge-sheet has been filed before the Court of Special Judge, East. In the FIR, the offences alleged are under Section 376 (f) & (k) and Section 493 of the Indian Penal Code, 1880 (IPC) as well as Section 6 of

the Protection of Children from Sexual offence Act, 2012. Section 376 (f) & (k) IPC are heinous offences. Section 6 of POCSO Act, 2012 relates to punishment for aggravated penetrated sexual assault of a child which is also a heinous offence. Under the scheme of the POSCO Act, 2012 more specifically under Section 35 thereof the evidence of child shall be recorded within a period of 30 days by the Special Court taking cognizance of the offences.

The allegations in the FIR suggests power of dominance of the petitioner on the victim who as per the charge-sheet is but a child.

As such, this Court is not inclined to grant bail at this stage to the petitioner who may, if so advised, be at liberty to seek bail before the Special Court after the evidence of the victim is recorded which shall, if preferred, be examined on its own merits then.

The Bail Application No. 06 of 2017 is dismissed.

Judge
11.10.2017

Index : Yes / No
/avi Internet : Yes / No