

04.02.2020
Sl. No.14
Akd & PA
[Adjourned]

C. R. M. 7933 of 2019

In Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 28.08.2019 in connection with Raiganj Police Station Case No. 156 of 2018 dated 31.03.2018 under Sections 363/365/34 of the Indian Penal Code and Sections 4/6/17 of the POCSO Act. (POCSO Case No.10 of 2018)

And

Madan Barman

... .. Petitioner

vs.

State of West Bengal

... .. Opposite Party

Mr. Kaushik Chowdhury .. Advocate
... .. for the petitioner

Mr. Sandip Chakraborty .. Advocate
... .. for the State

Pursuant to our earlier direction, Investigating Officer is personally present before this court. His presence is noted.

Report of the Chairperson, Child Welfare Committee is placed on record. It appears from the report that Child Welfare Committee has requested the Principal, Raiganj Govt. Medical College and Hospital to provide trained psychologist for counselling the minor victim.

Tenor of the report indicates a chronic lack of trained psychologists. Availability of trained psychologists is a *sine qua non* for the working of the laws enacted to protect minor victims of sexual abuse and other juveniles. We are not unmindful of the fact that most of the sexual offences are perpetrated by persons in trust like the relations and close associates of the victims. Needless to mention sexual offences leave a much deeper and indelible scar on the psyche of the

victim than his/her body. Healing process must begin at the earliest. Prompt availability of psychologists and other experts for counselling of the victims of sexual abuse is, therefore, the most urgent need to extend succor to such victims and their effective rehabilitation and protection.

Due to non-availability of trained psychologists, as in the present case, immediate attention and/or ameliorative measures envisaged under the POCSO Act and witness protection schemes remain illusory and non-existent in ground reality. Beneficial provisions engrafted in the statute should not become dead letters of law and remain unimplemented in reality due to infrastructural and functional deficiencies.

Under such circumstances, we direct the Chief Secretary, State of West Bengal to file an affidavit disclosing the number of trained psychologists available in various medical institutions and/or in the Department of Women & Child Development and Social Welfare, Government of West Bengal in various districts in the State. Such affidavit shall also disclose guidelines, if any, framed under Section 39 of the POCSO Act to ensure participation of adequate number of psychologists during the investigation and trial of POCSO cases.

Chairperson, State Commission for the Protection of Child Rights shall submit affidavit disclosing steps taken in the matter of framing guidelines under section 39 of the Act particularly with regard to availability of adequate number of psychologists for psychological counselling of minor victims during investigation and trial.

Affidavits be filed on the next date.

Secretary, Department of Women & Child Development and Social Welfare, Government of West Bengal as well as Member Secretary, State Legal Services Authority shall take immediate steps for

psychological counselling and grant of interim compensation to the victim in the present case. Report in that regard shall be filed by them on the next date of hearing.

Department is directed to communicate a copy of this order to the concerned officials for necessary and due compliance.

Let this matter appear under the same heading three weeks hence.

Investigating Officer is directed to be personally present before this court on the next date of hearing.

(Suvra Ghosh, J.)

(Joymalya Bagchi, J.)