

**HIGH COURT OF TRIPURA
AGARTALA**

BA No.110/2020

Shri. Vijoy Kumar

.....Applicant(s)

On behalf of Shri Vindeswar Sahni

.....Accused(s)

Versus

The State of Tripura

.....Respondent(s)

B_E_F_O_R_E

HON'BLE MR. JUSTICE S.G CHATTOPADHYAY

For the Applicant(s)

: Mr. P.K.Ghosh, Advocate.

For the Respondent(s)

: Mr. S.Debnath, Addl. PP.

Date of Hearing &
Delivery of Order

: **29.10.2020**

ORDER

[1] This is an application filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of bail to the accused petitioner.

[2] Heard Mr.P.K.Ghosh, learned counsel appearing for the accused petitioner. Heard Mr.S.Debnath, learned Addl. PP appearing for the state respondent.

In terms of order dated 20.10.2020, the case diary has been produced before this court.

[3] The basic facts, required for disposal of the petition are that the accused 'fuchkawala' had taken the victim to a lonely place nearby her home under allurement of giving 'fuchka' to her on 08.09.2020 at around 4.00 P.M. and touched different parts of her body with sexual intent. The child somehow escaped from the custody of the accused and returned to her home. She did not divulge the incident to her parents on that day as the accused had warned her that in case she divulged the matter to her parents, her parents would be killed. On the following day when she disclosed the matter to her parents, her mother lodged a written complaint to the Officer-in-charge of Khowai P.S. and based on the complaint of her mother, Khowai P.S. case No.2020 Khowai 111 under Sections 354 and 506 IPC and Section 8 of the POCSO Act was registered and the accused was arrested and taken to custody.

[4] Mr.Ghosh, learned counsel appearing for the accused contends that though the occurrence took place on 08.09.2020 and the 'Fuchkawala' was available in the locality and he was seen selling 'fuchka', no complaint was lodged against him before 11.09.2020. According to Mr. Ghosh, learned counsel, these very facts cast ring of doubt over the prosecution case. It is further contended by Mr. Ghosh that the accused is in custody for the last 49 days and he may be granted bail on any condition whatsoever.

[5] Mr. S.Debnath, learned Addl. PP on the other hand vehemently opposes the bail application and submits that this is a case of child sexual abuse and the accused sexually

molested a child of only 11 years of age. It is further contended by Mr. Debnath, learned Addl. PP that the accused hails from Bihar and this apart, as a 'fuchkawala' he frequently changes his place of business and therefore, if he is granted bail, it is quite likely that he may flee away from the jurisdiction of the trial court.

[6] I have gone through the case diary and the supporting materials available on record. Some of the material witnesses of the case including the victim has been examined by the investigating officer. Victim's statement consistently supports the prosecution case.

[7] Having appreciated the records and the submissions advanced on behalf of the parties, this court is of the considered view that this is not the fit case where the benefit of bail can be granted to the accused at this stage.

The bail petition stands rejected.

The Case Diary be returned immediately.

JUDGE

सत्यमेव जयते