

06.12.2021

Sl. No. 06.

Mithun

Ct.No.42.

**IA No:CRAN/1/2020(Old No.CRAN/3138/2020),
CRAN/2/2020(Old No.CRAN/3139/2020),
CRAN/3/2020(Old No.CRAN/4677/2020), CRAN/4/2021.**

**In
CRA/176/2020**

(Via Video Conference)

In re: An application for suspension of sentence under Section 389 of the Code of Criminal Procedure, 1973, judgment and order of conviction and sentence dated July 26, 2019 passed by the Court of learned Special Judge, POCSO Act, Barrackpore, North 24-Parganas, convicting the appellant thereby for offence punishable under Section 8 of the POCSO Act, 2012.

In the matter of : **Md.Salim**

...appellant.

Mr. Prabhat Kumar Srivastava, Adv.

... for the appellant.

Mr.Sandip Chakrabarty, Adv.

...for the State.

Though the learned Advocate for the appellant/petitioner has prayed for adjournment, this Court is not willing to adjourn the matter. Therefore, the application is taken up for hearing.

In re: CRAN/4/2021.

This is renewal of prayer of suspension of sentence and bail. It is submitted by the learned Advocate for the appellant that the appellant/petitioner has already served more than half of the term imprisonment. Actually he is in custody for about 2 years and 9 months out of 5 years of imprisonment. Learned Advocate for the petitioner also refers to a decision of the

Hon'ble Supreme Court in ***Saudan Singh Vs. The State of Uttar Pradesh (SLP (Crl) No.4634/2021*** and allied matters) and submits that where the convict suffers more than 50% of the actual sentence undergone such detention may be a basis for grant of bail.

Mr. Chakrabarty, learned Advocate for the State has vehemently opposed the prayer for bail.

Only on the ground of the period of incarceration in correctional home, prayer for bail of the appellant/petitioner is **allowed**. The petitioner may find bail of Rs.10,000/- with one surety of like amount to the satisfaction of the learned Special Judge, POCSO Act at Barrackpore, North 24-Parganas with further directions that if on bail, he must appear before the Trial Court once in a month till the disposal of the instant appeal and shall file an affidavit before the Court below stating his residential address, mobile number and Aadhar Card number so that he may be tracked during the pendency of appeal if his personal appearance is required in any manner.

The instant application is, thus, **disposed of** on contest.

Seen the report submitted by the Section Officer of Criminal Appeal Section. Office is directed to take proper step to bring the lower court record at the earliest.

(Bibek Chaudhuri, J.)