

14.12.2020

Ct. 30

Sd./40

CRA 251 of 2019

With

CRAN 1 of 2019 (Old CRAN 1928 of 2019)

Biswajit Sarkar vs. The State of West Bengal

Mr. A. Chakraborty

Mr. Sasanka Saha

..For the appellant/petitioner.

Mr. R. Roychowdhury

Ms. Faria Hossain

..For the State.

This is an application under section 389 of the Cr.P.C wherein the petitioner has sought for his release pending hearing of the appeal on the grounds stated in the Memo of Appeal.

The judgment and order of conviction and sentence dated 5.3.2019 and 6.3.2019 respectively was passed by the trial court sentencing the appellant for the offence punishable under section 10 of the POCSO Act 2012.

It is submitted that the appellant/petitioner was in custody during the trial and he has suffered nearly two and half years of punishment imposed on him. It is also pointed out that there are chances of success in the appeal and the petitioner/appellant is innocent and he is in no way involved in the crime.

The appeal was admitted on 18.4.2019. Though the LCR has been received but due to pandemic situation, requisite number of paper books have not been

made ready for disposal of the appeal. There is least chance of the appeal being heard in near future. Accordingly, the petitioner/appellant has sought to be released pending the appeal.

I have heard the learned advocate appearing on behalf of the appellant and the learned advocate for the State who has referred to a decision in a case of Bhagwan Rama Shinde Gosai vs. State of Gujrat reported in 1999 (4) SCC 421, in which the accused was convicted and sentenced for a period of 10 years RI for the offence u/s 392 and 397 IPC. It was observed that if the appeal is not disposed of expeditiously, the sentence was to be suspended subject to consideration of concern in the matter.

In this case, the appellant/petitioner has been sentenced for a period of 5 years for the offence under section 10 of the POCSO Act. Considering the term punishment and further considering, the appellant has served nearly half of the sentence and further considering that there is least scope of expeditious disposal of the appeal in this pandemic situation due to Covid-19, the appellant/petitioner be released on bail of Rs. 20,000/- with two sureties of like amount one of whom must be local subject to the satisfaction of the learned Special Judge, POCSO, Krishnanagar, Nadia.

Accordingly, CRAN 1928 of 2019 and all connected applications are disposed of.

(*Shivakant Prasad, J.*)