

30.09.2020

Court No. 16
Item No. 2 (S/L)
abhar/bdatta

**CRM 6790 of 2020
With
CRAN 1 of 2020**

(Via Video Conference)

In Re: An application for **Bail** under Section **439** of the Code of Criminal Procedure in connection with Canning Police Station Case No. 847 of 2017 dated 27.12.2017 under Section 376 of the Indian Penal Code read with Section 6 of the POCSO Act.

and
In the matter of: Nizamuddin Gazi @ Nazimuddin Gazi.
... Petitioner
Mr. Ramashis Mukherjee.
.....for the Petitioner
Mr. Prasun Kr. Datta,
Mr. Nirupam Dhali.
..... for the State

The learned advocate for the petitioner undertakes to affirm and stamp the petition/application as per Rules within 48 hours of resumption of normal functioning of the Court. Subject to such undertaking, the application is taken up.

The application being CRAN 1 of 2020 is accordingly disposed of.

The learned advocate for the petitioner submits that the petitioner has been falsely implicated in connection with the abovementioned case and, in fact, there is no ingredients shown for initiation of proceeding under Section 6 of the POCSO Act. It is further submitted that the petitioner is in custody for about 2 years 9 months and there is a least possibility of conclusion of the trial in near future.

The learned advocate appearing for the State opposes the prayer for bail. It is submitted that the charge sheet has already been submitted on 12th December, 2018 and, in fact, the trial had already commenced. The next date is fixed on 12th October, 2020 which would evince that even during the pandemic, the progress has been shown in the instant case.

After hearing the respective submissions and on perusal of the materials available before us and the fact that trial has already commenced, this Court can foresee that the case would

be brought to its logical conclusion at the earliest. Furthermore, we do not find anything which would enure to the benefit of the petitioner from the statement of the victim who happened to be 13 years at the time of alleged commission of offence. Accordingly, the prayer for bail is rejected.

However, we request the learned Special Judge in the Court below to make endeavours to complete the trial at the earliest.

The application for bail being C.R.M. 6790 of 2020 is dismissed.

(Subhasis Dasgupta, J.)

(Harish Tandon, J.)