

05.03.2021

Court No.28

rpan/ 04

C.R.M. 415 of 2021
(Via video Conference)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Golabari Police Station Case No. 515 of 2018 dated 01.09.2018 under Sections 376(D)/370(2)/341/120B of the Indian Penal Code ;

And

In re: **Dinesh Gupta**

-Petitioner.

Mr. Soumya Basu Roy Chowdhuri

....For the Petitioner.

Mr. Rudradipta Nandy

....For the State.

The learned advocate appearing for the petitioner submits that the allegations levelled against the petitioner are absolutely unfounded. Co-accused persons, who are similarly situated with the petitioner, had already been enlarged on bail. Investigation is over, charge-sheet has been filed and the trial is in progress. In view thereof, further detention of the petitioner, who is already in custody for more than two years and six months, is not necessary. He has drawn our attention to the orders passed by the co-ordinate Benches of this Court in CRM 8501 of 2020 on 21st October, 2020 and in CRM 9013 of 2020 on 10th November, 2020.

Per contra, Mr. Nandy, learned advocate appearing for the State opposes the petitioner's prayer and submits that the offences are heinous in nature pertaining to sexual exploitation and sexual abuse. He further submits that there are materials on record which clearly reveals the involvement of the petitioner in the alleged offence. The trial is in progress and some vital

witnesses are yet to be examined. In support of such contention, he has drawn our attention to the materials in the case diary.

We have perused the order dated 10th November, 2020 passed in CRM 9013 of 2020 wherefrom it appears that the pandemic situation weighed with the Court in passing the said order. From the order dated 21st October, 2020 passed in CRM 8501 of 2020, it appears that the same was passed upon observing that vulnerable witnesses had already been examined.

We have perused the materials in the case diary. We find that vital witnesses are still remaining to be examined in the present case.

While exercising discretion, the Court is required to maintain a balance between the personal liberty and the interest of the society. In a given situation, the collective interest of the community may outweigh the right of personal liberty of the individual concerned. In the instant case, the offences alleged are despicable in nature and furthermore, as it appears from the materials in the case diary that the petitioner was directly involved in the alleged offence, we are not inclined to exercise any discretion in favour of the petitioner. In view thereof, the petitioner's prayer for bail is refused.

The application for bail, being CRM No. 415 of 2021 is, thus, dismissed.

However, we direct the learned trial court to expedite the trial and to conclude the same as early as possible without granting any unnecessary adjournment to the parties.

The case diary is returned to Mr. Nandy.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Tirthankar Ghosh, J.)

(Tapabrata Chakraborty, J.)