

22.02.2021
Item no.42
Court No.28
Avijit Mitra

C.R.M. 489 of 2021 (through video conference)

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with Dhaniakhali Police Station Case No.167 of 2019 dated 20.09.2019 under Section 376(1) of the Indian Penal Code and Sections 4/6 of the POCSO Act;

And

In re: **Arka Khatam** ... petitioner

Mr. S.G. Chowdhury,
Mr. Abhishek Bose,
Mr. Arghya Das

... for the petitioner.

Mr. Saswata Gopal Mukherjee, Ld. P.P.,
Mr. Partha Pratim Das,
Ms. Manasi Roy

...for the State.

The learned advocate appearing for the petitioner submits that the petitioner is in custody since 20th September, 2019 and the trial has been progressing very slowly. Additionally the learned advocate submits that according to the D.N.A. report which has been submitted, as also the fact that the evidence of the victim has been concluded there is no requirement of further detention of the petitioner.

Mr. Das, the learned advocate appearing for the State draws the attention of this Court to the order passed by the learned Trial Court and submits that the trial is at the crucial stage and considering the allegations on the basis of which the prosecution is proceeding releasing the petitioner would seriously prejudice the prosecution.

We have perused the statements of the witnesses and the stage of the case, having regard to the gravity and nature of the offence and the role attributed to the petitioner, we are not

inclined to release the petitioner on bail. As such the prayer for bail of the petitioner is rejected.

Having regard to the fact that the petitioner is in custody for about 16 months we direct the Trial Court to adhere to the provision of Section 35 of the POCSO Act.

With the above observation, the application being C.R.M. 489 of 2021 is disposed of.

(Tirthankar Ghosh, J.)

(Tapabrata Chakraborty, J.)