

20.12.2021
Court No.32
Item No. 36
Avijit Mitra

C.R.M. 7857 of 2021

In Re:- An application for bail under section 439 of the Code of Criminal Procedure;

And

In Re : Sk. Ainuddin

Petitioner

Mr. Mukteswar Maity

..For the Petitioner

Md. Anwar Hossain,
Ms. Shreyashee Biswas

...For the State

After prolonged custody of 1147 days the instant application has been filed in connection with Contai Woman Police Station Case No.67 of 2018 dated 29.10.2018 under Sections 376(3)/506/34 of the Indian Penal Code and Section 6 of the POCSO Act praying for release on bail.

Learned lawyer for the petitioner submitted, that the petitioner is in prolonged custody and there is no immediate commencement of trial. Considering the procrastination of the trial, the learned lawyer prays that the petitioner may be released on bail.

Per contra, learned lawyer for the State submitted, that strong incriminating elements are there against the present petitioner. The victim girl is a minor and she conceived as a result of the alleged rape. She has given birth to a girl child. DNA report has also come. Victim is only 13 years old at the time of alleged incident. Considering the nature of allegations and seriousness,

bail should not be granted, as submitted by the learned lawyer representing the State.

We have perused the case diary and heard the rival submissions. We have noticed that the petitioner is in custody for long and there is nothing to show that the trial is in progress or there is any scope of immediate commencement of trial. However, we are also mindful of the fact that the victim was 13 years of old at the time of alleged incident and strong incriminating elements are there against the present petitioner particularly, the statement of the victim girl, as recorded under Section 164 of the Code of Criminal Procedure. Considering the seriousness of the allegations and incriminating elements present against the present petitioner, we are not inclined to release the present petitioner on bail, at this stage. However we direct the learned Trial Court to consider the charge immediately within a period of one month from the date communication of this order and to conclude the trial, if charges are so framed, within a period of eight months thereafter.

Accordingly, the application for bail, being CRM No. 7857 of 2021 is disposed of.

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

(Sugato Majumdar, J)

(Tapabrata Chakraborty, J)