

17.03.2021.
Item No.13
(Rejected)
ab

C.R.M. 9426 of 2020

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with Hare Street P.S. Case No. 233 of 2017 dated 05.06.2017 under Section 376(2)(i) of the Indian Penal Code read with Section 4 of the Protection of Children from Sexual Offences Act;

And

In the matter of : **Pawan Balmiki @ Pawan Kumar Balmiki.**
... petitioner.

Mr. Dipankar Aditya,
Ms. Tina Biswas. ...For the petitioner.

Mr. Saswata Gopal Mukherjee, Ld. PP,
Ms. Faria Hossain,
Mr. B. Bose. ...For the State.

The Advocate-on-Record of the petitioner undertakes to affirm and stamp the petition/application as per the Rules within four weeks from date. Subject to such undertaking the application is taken up for hearing.

This is an application for bail in connection with Hare Street P.S. Case No. 233 of 2017 under Section 376(2)(i) of the Indian Penal Code read with Section 4 of the Protection of Children from Sexual Offences Act at the behest of the petitioner.

This is the second application for bail filed by the petitioner before us. The earlier application was dismissed on 1st April 2019 with a specific direction that the learned Special Judge shall not grant adjournment to either of the parties and the prosecution was directed to produce the witness on the next date fixed.

It is submitted on behalf of the petitioner that despite such order no progress has been seen and only one witness has been examined by the Special Bench.

Learned Advocate for the State opposes the prayer for bail and submits that because of the pandemic the progress cannot be made to the said case. However, it is submitted that steps would be taken so that the case is brought to its logical end.

After hearing the respective Counsels and on perusal of the materials available from the application and the nature of offence alleged to have been committed by the petitioner and the fact that the trial has commenced, we do not think it is a fit case where the petitioner should be enlarged on bail.

Accordingly, the application for bail being CRM 9426 of 2020 is **rejected**.

However, we direct the learned Special Judge to fix the date for recording evidence of the rest of the witnesses cited in the charge-sheet and all efforts shall be shown to dispose of the case within nine months from the date of communication of this order. Neither of the parties shall pray for an adjournment except any unavoidable circumstances and shall assist and cooperate with the court in adhering the time limit as indicated herein above.

(Harish Tandon, J.)

(Tirthankar Ghosh, J.)