

29.07.2021

Court No.28
Item No. JB - 05
nandy

(bail – rejected)

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT
JALPAIGURI**

(Via Video Conference)

CRM 673 of 2021

In Re:- An application for **Bail** under Section **439** of the Code of Criminal Procedure filed on 19.06.2021 in connection with Nagarkata Police Station Case No. 101 of 2017 dated 01.09.2017 under Section 4 of the Protection of Children from Sexual Offences Act. (Sessions (POCSO) Case No. 61 of 2017)

and

In the matter of: **Bishal Kujur**

.....Petitioner

Mr. Jaydeep Kanta Bhowmik, Advocate

.....for the Petitioner

Mr. Nilay Chakraborty, Advocate

Mr. Saikat Chatterjee, Advocate

.....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.

The petitioner has filed the instant application for bail in connection with Nagarkata Police Station Case No. 101 of 2017 dated 01.09.2017 under Section 4 of the Protection of Children from Sexual Offences Act

The petitioner, who is in custody since September 2017, seeks bail on the premise of delayed trial. Learned Advocate for the petitioner submits that even after the charges are framed, the prosecution is reluctant in bringing the witnesses and even though several dates were fixed, no progress could be seen therefrom.

The aforesaid statement is refuted by the learned Advocate for

the State. He drew our attention to the order dated April 26, 2021 passed by the learned Additional Sessions Judge, Special POCSO Court at Mal Jalaiguri wherein the evidence of the victim girl was being recorded and, therefore, we do not find the statement of the petitioner to be factually correct.

However, we are not in a position to ascertain whether the statement of the minor victim girl is complete in all respect. The documents relied upon by the petitioner does not contain any date on which the application for bail filed by the petitioner was rejected i.e. April 26, 2021. On the basis of an incomplete information downloaded from the official website, we do not think that the contention of the petitioner is sacrosanct. However, we show our concern over the delayed disposal of the case. It is beyond cavil of doubt that the cases related to sexual offences against children must be taken up on priority basis and some element of alacrity must be there in the minds of the Special Judge.

The evidence of the statements of the minor victim girl is being recorded and none of the Counsel is aware of the next date being fixed.

We thus direct the learned Additional Sessions Judge, POCSO Court, Mal Jalpaiguri, to fix a date for recording the evidence of the minor victim girl within a fortnight from the date of communication of this order. The prosecution shall ensure the attendance of the minor victim girl on the said date so fixed and we are assured by the learned Advocate for the petitioner that they would not ask for any adjournment and shall make endeavour to complete the cross-examination if they wish to do so on the same date.

For any reason beyond the conceivable imagination or because of unavoidable circumstances, the evidence of the minor

victim girl could not be completed on the date so fixed, the learned Judge would fix the matter on the next date, so that her evidence is recorded in its entirety and be discharged.

Since a serious allegation has been made against the petitioner and the statement of the minor victim girl recorded under Section 164 of the Code of Criminal Procedure does not prima facie absolve the petitioner being the perpetrator of the alleged offence, we do not think that the petitioner should be released on bail.

As such, the prayer for bail is **rejected**.

The application being **CRM 673 of 2021** thus stands **dismissed**.

(Harish Tandon, J.)

(Bibek Chaudhuri, J.)