

26.05.2022
Court No.05
Item No. 35
D.C/AM

C.R.M. (DB) No.1426 of 2022

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Baruipur Police Station Case No.1542 of 2021 dated 04.09.2021 under Sections 363/365/376(2)(n) of the Indian Penal Code read with Section 6 of the POCSO Act;

And

In Re : Amit Gayen

Petitioner

Mr. Mrityunjoy Chatterjee,
Mr. Partha Sarathi Mondal,
Mr. Debapriya Majumder

For the Petitioner

Mr. Swapan Banerjee,
Mr. Anindya Sundar Chatterjee

For the State

Learned counsel for the petitioner contends that the trial in the matter has not yet commenced for a considerable period and as such, the petitioner's personal liberty ought not to be curtailed further by incarceration.

Learned counsel for the State opposes the prayer for bail.

Upon consideration of the materials and submissions of counsel, it is found that the allegations levelled, being primarily under Section 6 of the POCSO Act, are grave in nature. Moreover, in view of the materials before the Court, we are, *prima facie*, satisfied that the presumption as contemplated in the said Act against the accused takes effect in the present case as well, thereby debarring us, in the absence of mitigating circumstance, to bypass the said presumption and grant bail to the petitioner.

However, since the trial in the matter has not yet been commenced, thereby tarnishing the goodwill of the petitioner and

restraining the personal liberty of the petitioner for a considerable period, we direct the respondent authorities to take appropriate steps for immediate commencement of the trial in the matter.

It is expected that the trial shall be concluded within a reasonable period.

CRM (DB) 1426 of 2022 is rejected in the light of the above observations.

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

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)