

02.09.2022.
14.
Ct.No.28
as
(Allowed)

C.R.M. (DB) 2964 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with Golabari P. S. Case No.576 of 2013 dated 31.07.2013 under Sections 341/326/307/376/511 of the Indian Penal Code now pending in the Court of Learned Judge, Special Court under POCSO Act cum the Court of Learned 2nd Additional District & Sessions Judge at Howrah as Special TR Case no.121 of 2020 under Sections 341/326/307/376/511/302 of the Indian Penal Code and Section 6 of the POCSO Act.

In the matter of : Tinku Kumar Singh.

.... Petitioner.

Mr. Dev Kr. Sharma.

...for the Petitioner.

Ms. Zareen N. Khan,
Mr. Arup Sarkar.

...for the State.

Petitioner is in custody for more than nine years. He renews his prayer for bail.

Learned Advocate for the State opposes the prayer for bail. She submits trial had commenced before the regular Court. Subsequently, offence under Section 6 of POCSO Act was added and the case was transferred to the Special Court.

We have considered the materials on record. Allegation against the petitioner involves penetrative sexual assault on a minor who was subsequently murdered. Though the allegations are very grave, we note there is inordinate delay in progress of trial. Petitioner has suffered under trial detention for more than nine years. We are informed 26 witnesses are yet to be examined and there is little possibility of concluding the trial in near future.

From the materials on record we also note delay in the trial is not attributable to the petitioner. Such protracted under trial detention in our estimation infracts the fundamental right to speedy trial of the petitioner. In view of the aforesaid facts notwithstanding the gravity of the offence, we are inclined to enlarge the petitioner on bail subject to strict conditions.

Accordingly, the petitioner shall be released on bail upon furnishing a bond of Rs.50,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the POCSO Act, Howrah subject to condition that the petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever and on further condition that the petitioner while on bail shall remain within the jurisdiction of Golabari Police Station except for the purposes of investigation and/or attending court proceedings and shall report to the Officer-in-charge of the Golabari Police Station once in a week until further orders.

In the event the petitioner fails to appear before the Trial Court without any justifiable cause, the trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

This application for bail is, thus, disposed of.

(Ajay Kumar Gupta,J.)

(Joymalya Bagchi, J.)

