

12.10.2022

Vacation Bench
SL No.24
S.Banerjee/s.biswas
(Allowed)

C.R.M. (DB) 3553 of 2022

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Gaighata** P.S. Case No.**650 of 2022** dated **12.07.2022** under Sections **342/376(2)(J)** of the Indian Penal Code and Case No.SPL(P)-31 of 2022 under Sections **6** of the POCSO Act.

And

In the matter of: **Swapan Sarkar**

....Petitioner

Mr. Debabrata Roy,
Mr. Mahadeb Sarkar,
Mr. Bikash Chowdhury

...for the Petitioner

Mr. Bidyut Kr. Roy,
Ms. Rita Datta

...for the State

The petitioner renews his prayer for bail. It is submitted on behalf of the petitioner that the statement of the minor girl does not disclose a case of penetrative sexual assault.

Learned counsel appearing on behalf of the State opposes the prayer for bail.

We have considered the materials on record. Investigation is complete. Hence, there is change in circumstance since the last rejection of bail by this Court.

In view of the aforesaid fact and the period of detention suffered by the petitioner, i.e., more than 91 days, we are inclined to grant bail to the petitioner.

Accordingly, the petitioner shall be released on bail upon furnishing a Bond of ₹10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the

Learned Additional Chief Judicial Magistrate, North 24 Parganas at Bongaon subject to the condition that the petitioner shall appear before the learned trial court on every day of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to comply with the conditions as enshrined hereinbefore, it is open to the trial court to cancel the bail of the petitioner without any further reference to this Court.

The application for bail is, thus, allowed.

(Apurba Sinha Ray, J.)

(Joymalya Bagchi, J.)