

17.11.2022
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allowed

CRM(DB) No. 3879 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Jalangi Police Station Case No. 102 of 2017 dated 05.02.2017 under Section 6 of the POCSO Act.

And

In Re : Earul Shekh @ Yearul Sk. petitioner

Mr. Jisan Iqubal Hossain
Ms. Chandrima Debnath
.....for the petitioner

Mr. Saswata Gopal Mukherji, learned P.P.
Mr. Aniket Mitra
..... for the State

Learned Counsel appearing for the petitioner submits he is in custody for five and half years. There is no progress in the trial of the case.

Learned Counsel appearing for the State opposes the prayer for bail.

We have considered the materials on record. Though the allegations are grave, no explanation is forthcoming with regard to inordinate delay in trial.

In view of the aforesaid, we are of the opinion the inordinate delay in trial to which the petitioner had hardly contributed has infringed his fundamental right under Article 21 of the Constitution of India. On such score, we are inclined to grant bail to the petitioner.

Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties

of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under POCSO Act, Berhampore, Murshidabad, subject to condition that the petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

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

The application for bail is, accordingly, allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)