

05.05.2022

Court No.01
rpan /41

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

C.R.M. (DB) 123 of 2022

In Re:- An application for bail under section 439 of the Code of Criminal Procedure;

And

In Re : **Faterul Hoque @ Mozammel Haque @
M/S Fatejul Haque @ Fatejul**
...Petitioner.

Mr. Jaydeep Kanta Bhowmik,
Mr. Sayantan Bhowmik
... for the petitioner.
Mr. Nilay Chakraborty,
Ms. Namrata Das
...for the State.

The present application for bail under Section 439 of the Code of Criminal Procedure in connection with Dhupguri Police Station, Jalpaiguri Case No.173 of 2019 dated 20.05.2019 under Section 376(2) of the Indian Penal Code read with Section 4 of the Protection of Children from Sexual Offences Act, 2012 [Charge-sheet submitted under Section 376(2)(I) of the Indian Penal Code read with Section 4 of the POCSO Act] has been filed by the petitioner.

Mr. Bhowmik, learned advocate appearing for the petitioner submits that in spite of three earlier directions of different coordinate Benches of this Court, charges have not yet been framed. The petitioner is languishing in custody for more than two years eleven months and there is no possibility towards conclusion of the trial in the near future.

Ms. Das, learned advocate appearing for the State submits that the delay which has occurred is not totally attributable to the State. Furthermore the period of delay stands intervened by a

period lost due to the pandemics. Answering our query she submits that date for framing of charges has been fixed on 8th June, 2022.

Having heard the learned advocates and considering the materials in the case diary, the gravity of the offence and its ramifications, the petitioner's prayer for bail is refused at this stage.

However, it is directed that the learned Special Court shall frame the charges positively on the next date as fixed, i.e., on 8th June, 2022, without granting any adjournment to either of the parties.

In the event the concerned Special Court is not available on the said date, the matter shall be taken up by the learned Special Court in-charge.

It is further made clear that if for any other reason hearing cannot be conducted on 8th June, 2022, the next date shall be fixed by the learned Special Court within ten days thereafter for framing the charges.

The above direction is mandatory and the petitioner would be at liberty to approach this Court, if the above direction is not complied with.

The application for bail, being CRM (DB) 123 of 2022, is, thus, disposed of.

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

(Ajoy Kumar Mukherjee, J.) (Tapabrata Chakraborty, J.)