

31.01.2023
SI. No.19
akd
[ALLOWED]

C. R. M. (DB) 173 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 10.01.2023 in connection with Tehatta Police Station Case No.114 of 2018 dated 14.03.2018 under Section 376 of the Indian Penal Code and Section 6 of the POCSO Act.

And

In Re: ***Budhadeb Pal @ Budu***

... .. Petitioner

Mr. Soumyajit Das Mahapatra
Mr. Sourav Mukherjee
Ms. Madhurai Sinha

... .. for the petitioner

Mr. Binay Panda
Mr. Subham Bhakat

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for more than four years. It is further submitted there is delay in the trial.

Report with regard to status of the proceeding is placed on record.

We have considered the materials on record. We are surprised to note in spite of direction given by this court in CRM 7103 of 2021 to examine the minor victim within six months, the said victim has not yet been examined. Perusal of the order sheet placed before us shows initially report was filed that the victim is untraceable. Subsequently, victim was produced on 16.06.2022 but not examined. Presently, the matter has been adjourned for appointment of Special Public Prosecutor.

The aforesaid facts display a distressing state of affairs and wanton disregard of the statutory mandate of POCSO Act. Section 33(5) of the POCSO Act provides that the victim shall not be brought to court repeatedly for examination. Her evidence is to be recorded within

six months of taking cognizance. None of these directions were borne in mind by the Prosecutor while conducting the trial. Petitioner continued to languish in jail.

In this factual background, we are inclined to grant bail to the petitioner.

Therefore, the accused/petitioner, namely ***Budhadeb Pal @ Budu***, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), 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, Tehatta, Nadia subject to condition that the said 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.

In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

The application for bail, thus, stands **allowed**.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)