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**CRM(DB) No. 522 of 2023**

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Madhyamgram Police Station Case No. 533 of 2019 dated 18.12.2019 under Section 6 of the POCSO Act and charge-sheet submitted under Sections 376(2)(f)(n)/376AD of the Indian Penal Code and Section 6 of the POCSO Act.

And

In Re : Sourav Malakar alias Banti ..... petitioner

Mr. Angshuman Chakraborty

Mr. S. S. Saha

.....for the petitioner

Mr. Neguive Ahamed, learned APP

Ms. Trina Mitra

..... for the State

Mrs. Karabi Roy

..... for the de facto complainant

Learned Counsel for the petitioner submits he is in custody for more than three years and two months. It is also submitted that there is inordinate delay in trial. He prays for bail.

Learned Counsel for the State opposes the prayer for bail and submits official witnesses are yet to be examined.

Learned Counsel for the de facto complainant opposes the prayer for bail.

We have considered the materials on record. Vulnerable witnesses including the victim have already been examined. No explanation is forthcoming why the official witnesses i.e. doctor and investigating officer could not be examined till date. In view of the aforesaid circumstances, we are constrained to observe that delay in trial has infringed the fundamental right of the petitioner

to speedy justice. Under such circumstances, we are inclined to grant bail to him.

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, North 24 Parganas, Barasat, subject to condition that 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.)**