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C.R.M. (SB) 56 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure, 1973 filed in connection with Dolahat Police Station Case No.386 of 2022 dated 15.08.2022 under Section 8 of the Protection of Children from Sexual Offences Act;

Raich Mir @ Batul
Versus
The State of West Bengal and another

Mr. Niladri Sekhar Ghosh,
Mr. Partha Sarathi Mondal,
Mr. Sourav Mondal.
...for the petitioner.

Mr. Tanmoy Kr. Ghosh,
Mr. Arindam Sen.
...for the State.

Mr. Ayan Bhattacharjee.
...for the opposite party no.2.

Mr. Niladri Sekhar Ghosh, learned advocate appearing for the petitioner submits that in spite of a direction of this Court, there has been no progress till date and the victim girl is avoiding the court for which the evidence cannot progress. Learned advocate has drawn the attention of the Court to the different order-sheets pursuant to the order passed in CRM (SB) 284 of 2022.

Learned advocate appearing for the State submits a report prepared by the concerned Officer of Dholahat Police Station. Let the same be kept with the record. Attention of the Court is also drawn to the order dated 20th April, 2023. Learned advocate for the State also submits that there is a cease work called by the advocates of the local bar.

Be that as it may, the intention of the legislature in a case under the provisions of POCSO Act was to see that the deposition of the victim is recorded within a scheduled time. The order-sheet dated 3rd March, 2023 reflects that there was a direction by the learned special court upon the Inspector-in-Charge, Dholahat Police Station to effect service upon the victim girl. The next date was fixed on 9th March, 2023 which do not reflect any communication from the Inspector-in-Charge of the concerned Police Station for effecting service or the service being already effected upon the victim girl. The order dated 20th April, 2023 amongst others reflect that the Presiding Officer was on leave. The said order also do not reflect the presence of the learned advocate appearing for the accused.

I have considered the manner in which the proceedings are continuing before the learned special court and I find there is contributory negligence on the part of all the parties to the litigation to delay the process of trial in the said proceedings. The next date is fixed on 20th May, 2023.

The DSP/SDPO of the jurisdiction-in-charge of Dholahat Police Station would act as a Nodal Officer of this case henceforth and ensure the presence of the witnesses on the dates fixed by the learned trial court. All efforts must be taken to produce the prosecution witnesses by 15th June, 2023 so that the trial of the case can be taken to its logical conclusion.

The prayer for bail at this stage is rejected. The petitioner would be at liberty to approach this Court after 15th June, 2023.

Accordingly, CRM (SB) 56 of 2023 is disposed of.

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Tirthankar Ghosh, J.)