

10.04.2023  
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allowed

CRM(DB) No. 1101 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Beldanga Police Station Case No. 437 of 2017 dated 30.09.2017 under Sections 376/506 of the Indian Penal and Section 6 of the POCSO Act.

And

In Re : Kashinath @ Kashi Saha @ Kashinath Saha ..... petitioner

Mr. Tapodip Gupta

....for the petitioner

Mr. Swapan Banerjee

Mr. Anindya Sundar Chatterjee

.... for the State

Report filed in Court be placed on record.

Learned Counsel for the petitioner submits he is in custody for more than five years. There is no possibility of the trial concluding in the near future. He prays for bail.

Learned Counsel for the State opposes the prayer for bail.

Victim has been notified. Nobody appears for the victim.

We have considered the materials on record. Though allegations are grave and involve penetrative sexual assault on the minor petitioner has suffered incarceration for more than five years. Progress in the trial is not appreciable and there is no assurance that it would conclude in near future. Vulnerable witness i.e. minor has already been examined. Under such circumstances, we are of the opinion further detention of the petitioner is not necessary and he may be released on bail.

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 conditions 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.

**(Partha Sarathi Sen, J.)**

**(Joymalya Bagchi, J.)**