

05.06.2023
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allowed

CRM(DB) No. 2068 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Tiljala Police Station Case No. 324 of 2017 dated 27.12.2017 under Sections 376(2)(i)/506(II) of the Indian Penal Code and Sections 6 /10 of the POCSO Act.

And

In Re : Md. Mirajuddin @ Chand petitioner

Mr. Deepak Prahladka

Ms. Reshmi Khatun

....for the petitioner

Ms. Faria Hossain

Mr. Ahand Keshari

.... for the State

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

Learned Counsel for the State opposes the prayer for bail.

We have considered the materials on record. Though allegations involve penetrative sexual assault on a minor, we note petitioner has suffered incarceration for more than five years. Vulnerable witness has already been examined. There is no possibility of abscondence. Under such circumstances on the ground of delay in trial, we are inclined to release the petitioner on bail subject to strict conditions.

Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- with two registered sureties of like amount each, to the satisfaction of the learned Additional Sessions Judge, 2nd court, Alipore, South 24 Parganas,

on further condition that while on bail petitioner shall remain within the jurisdiction of Topsia Police Station except for the purposes of investigation and /or attending court proceeding and shall meet the officer-in-charge of Topsia Police Station once in a week until further orders. 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.)