

16.08.2023
Sl. No.30
akd
[ALLOWED]

C. R. M. (DB) 3029 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 26.07.2023 in connection with Bamangola Police Station Case No.85 of 2017 dated 07.05.2017 under Sections 363/365 of the Indian Penal Code and Section 4 of the POCSO Act.

And

In Re: **Sarkar Soren**

... .. Petitioner

Mrs. Soma Chowdhury (Bandhu)

... .. for the petitioner

Mr. Prasun Kr. Datta .. Id. Addl. Public Prosecutor

Mr. Santanu Deb Roy

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for more than six years. It is further submitted there is inordinate delay in trial. Accordingly, he prays for bail.
2. Learned Additional Public Prosecutor opposes the prayer for bail and submits the minor victim has implicated the petitioner in the offence of penetrative sexual assault.
3. We have considered the materials on record. Allegations are grave but vulnerable witness has been examined. Petitioner is in custody for more than six years and there is little possibility of the trial concluding in the near future. Under such circumstances, we are of the opinion petitioner has been able to make out a case of breach of his fundamental right to speedy trial under Article 21 of the Constitution of India and he is entitled to bail on such score.
4. Therefore, the accused/petitioner, namely **Sarkar Soren**, 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-cum-Additional District Judge, 2nd Court, Malda 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.

5. 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.
6. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)