

03.10.2023
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allowed

CRM(DB) No. 3614 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Bhadreswar Police Station Case No. 345 of 2018 dated 27.08.2018 under Section 376(2)(i) of the Indian Penal Code read with Section 6 of the POCSO Act.

And

In Re : Lakhi Kanta Dolui @ Laxmikanta Dalui petitioner

Mr. Bitasok Banerjee

....for the petitioner

Mr. Swapan Banerjee

Mr. Anindya Sundar Chatterjee

.... for the State

Mr. Panchanan Hajra

.... for de facto complainant

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

2. Learned Counsel for the State opposes the prayer for bail and submits date has been fixed for examination of the witnesses.

3. Learned Counsel for the de facto complainant submits victim is a minor girl and was subjected to penetrative sexual assault.

4. We have considered the materials on record. Allegations are very grave and involves penetrative sexual assault on the minor. But petitioner had suffered incarceration for more than five years and there is little possibility of trial concluding in near future. Hence, we are of the opinion that petitioner has made out

a case of breach of his fundamental right to speedy trial and he is entitled to bail on this score but subject to strict conditions.

5. 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, Chandannagar, Hooghly, on further conditions that the petitioner shall not enter the district of Bhadreswar Police Station except for the purpose of attending court proceedings and shall provide the address where he shall presently reside to the investigating agency as well as court below and shall meet the Officer-in-Charge of the police station concerned within whose jurisdiction he is presently residing once in a week until further orders. He 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.

6. 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.

7. The application for bail is, accordingly, allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)