

13.10.2023
tkm/ct 28
sl no. 31

C.R.M. (DB) 3999 of 2023

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Howrah Women PS case no. 43 of 2015 dated 30.7.2015 under sections 376(2)(i)(f) IPC adding sections 4/8/12 of the POCSO Act

And

In Re : Aman Paswan

...petitioner

Mr. Rajeev Lochan

..... for the petitioner

Mr. Ranabir Roy Chowdhury

Mr. Mainak Gupta

..... for the State

1. Petitioner is in custody for eight years. He submits there are defects in the prosecution case. No public witness has been examined. Statement of the accused before medical officer is a procured one. He prays for bail.

2. Learned lawyer for the State opposes the bail prayer. He submits delay in the trial was engineered through subterfuges by the defence. He contends minor victim implicated the petitioner in the crime which is corroborated by other evidence on record.

3. We have considered the materials on record. Minor victim has implicated the petitioner in the offence of penetrative sexual assault. Offences if proved would attract imprisonment for life i.e. till the natural life of the petitioner. The issues raised by the petitioner with regard to non-production of FSL report or non-examination of the public witness do not go to the root of the prosecution case which is founded on the evidence of the minor corroborated by her parents and other materials on record. The nature of offence and its gravity clearly persuade us not to grant

bail to the petitioner at this stage lest he shall take advantage of the situation and further delay the proceeding.

4. Accordingly, prayer for bail is rejected.

5. Trial court is requested to expedite the trial and conclude the same at an early date preferably within six months from the next date fixed for recording evidence and no unnecessary adjournments shall be granted to the parties including the petitioner on the excuse of leading defence evidence.

6. Parties shall co-operate with the trial court and communicate this order to trial court for necessary compliance.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)