

C.R.M. (DB) No. 4224 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Ganga Sagar Coastal** P.S. Case No. **29 of 2020** dated **18/02/2020** under Sections **376/506** of the Indian Penal Code and under Section **6** of the POCSO Act.

And

In the matter of: - Dilip Ghorai @ Dilip Gorai @ Dilip Ghorui @
Banshi

....petitioner.

Mr. Pronojit Roy

...for the petitioner.

Mr. Prasun Kumar Datta,
Mr. Nirupam Dhali

...for the State.

1. Learned counsel for the petitioner contends that the petitioner is already in custody for about three years and eight months. At the juncture when the previous bail application of the petitioner was rejected on June 17, 2022, there was a direction passed by a coordinate Bench to the effect that the trial shall be concluded within six months. However, thereafter no witness has been examined as yet.
2. Learned Additional Public Prosecutor submits that the petitioner has been incarcerated for offences under the POCSO Act which are grave in nature. It is argued that the age of the victim at the relevant juncture was only ten years and there is incriminating evidence against the petitioner.

3. It is well-settled that while considering the prayer for bail of an undertrial, the factors which have to be looked into are not akin to a trial of the case itself, nor is bail equivalent to an acquittal of the victim. In spite of there being quite a number of evidences against the petitioner, we are of the opinion that since the petitioner is in long incarceration for about three years and eight months and the trial did not proceed any further despite the previous direction dated June 17, 2022 to conclude the same within six months, the petitioner need not be incarcerated further during the entire period of trial. However, in view of the nature of the allegations the petitioner ought to be put to stringent conditions.
4. Accordingly, CRM (DB) No. 4224 of 2023 is allowed, thereby granting bail to the petitioner on condition that the petitioner furnishes bond of Rs.20,000/-, 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, Kakdwip. The petitioner shall not leave the territorial jurisdiction of the trial court during the entire period of trial and shall attend the trial on each and every date. The petitioner shall not make any inducement, threat or promise to any person acquainted with the facts and circumstances of the case so as to dissuade such person from disclosing such facts to any police officer or the court and/or tamper with the

evidence in any manner whatsoever.

5. The petitioner shall not, in any manner, make any attempt to come in the vicinity of the victim and/or contact the victim and/or any of the witnesses in any manner whatsoever. In default of any of the above clauses, the bail herein granted shall stand automatically cancelled.

(Sabyasachi Bhattacharyya, J.)

(Partha Sarathi Chatterjee, J.)

