

19.12.2023
Sl. No.99
akd
[ALLOWED]

C. R. M. (DB) 4493 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 17.11.2023 in connection with Anandapur Police Station Case No.129 of 2018 dated 30.04.2018 under Section 376(2)(i) of the Indian Penal Code and Section 6 of the POCSO Act.

And

In Re: ***Kutubuddin Molla @ Bhola***

... .. Petitioner

Mr. Uday Sankar Chattopadhyay
Ms. Trisha Rakshit
Mr. Rajarshee Tah
Ms. Aishwarya Dutta

... .. for the petitioner

Mr. Swapan Banerjee
Ms. Mamata Jana

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about five years and eight months. Accordingly, he renews his prayer for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits trial is in progress.
3. We have considered the materials on record. Bail prayer of the petitioner was rejected in April, 2022. Till date four out of eight witnesses have been examined. There is no possibility of trial concluding in the near future. Under such circumstances, we are of the opinion petitioner has made out a case of breach of his fundamental right to speedy trial and he is entitled to bail on this score.
4. Therefore, the accused/petitioner, namely ***Kutubuddin Molla @ Bhola***, 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

Additional Sessions Judge, 2nd Court, Special Court, Alipore, South 24-Parganas 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.)