

D/L. 21
January 31, 2023
MNS

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CRM (DB) 1 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 02.01.2023 in connection with Alipurduar Women Police Station Case No. 95 of 2021 dated 08.09.2021 under Sections 448/376(3)/506 of the Indian Penal Code read with Section 6 of the Protection of Children from Sexual Offences Act, 2012.

And

In the matter of: Sujan Roy @ Sujan Ray

.... Petitioner

Ms. Esha Acharya

... for the petitioner

Mr. Ujjwal Luksom,

Mr. Kallol Nag

... for the State

The petitioner contends that the petitioner is in custody for about 529 days. The age of the petitioner is only 24 years and, as such, it is submitted that bail may be granted to the petitioner.

It is also contended that despite direction of a co-ordinate Bench dated November 28, 2022 passed in CRM(DB) 344 of 2022 to expedite the trial within a period of a month from the said date, the trial has not yet proceeded satisfactorily.

Learned counsel appearing for the State submits that it was recorded by the trial court in its order dated December 3, 2022, that is, after the direction of the co-ordinate Bench, that the regular court was absent on the said date. Moreover, it is submitted that the counsel for the defence also sought adjournment before the trial court. As such, the trial court is not at fault for the delay occasioned.

We find from the observations of the co-ordinate Bench dated November 28, 2022 that the said Bench clearly recorded that the statement of the victim was corroborated by the medical report and strong incriminating elements were found in the case diary. On such ground, the Division Bench was not inclined to release the petitioner on bail at that stage. Although such findings are not conclusive inasmuch as the trial is concerned, only about three months have elapsed after the said refusal of bail and we do not find any change of circumstance sufficient to revisit the said refusal of bail at this stage. Moreover, there is some doubt as to the reason for the delay occasioned in expediting the trial as indicated by the State.

In any event, since there is a standing direction of a co-ordinate Bench to expedite the trial, we do not want to interfere further at this stage.

Accordingly, CRM (DB) 1 of 2023 is disposed of by expressing the hope that the trial court shall expedite the hearing as much as possible and shall be conclude the same positively within one year from this date.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)