

D/L. 31
February 1, 2023
MNS

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

CRM (DB) 18 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 03.01.2023 in connection with Sessions Case No. 05 of 2019 (POCSO) arising out of Mateli Police Station Case No. 35 of 2019 dated 09.03.2019 under Section 376 AB of the Indian Penal Code read with Section 6 of the Protection of Children from Sexual Offences Act, 2012 and Charge Sheet submitted vide Charge Sheet No. 48 of 2019 dated 18.05.2019 submitted under Section 376 AB of the Indian Penal Code read with Section 6 of the Protection of Children from Sexual Offences Act, 2012.

And

In the matter of: Amit Oraon

.... Petitioner

Mr. Joydeep Kanta Bhowmik,
Mr. Sayantan Bhowmik

... for the petitioner

Mr. Ujjwal Luksom,
Ms. Namrata Das

... for the State

Learned counsel for the petitioner contends that the petitioner is in custody for three years, ten months and twenty days, although a previous prayer for bail was refused by a co-ordinate Bench dated March 22, 2021. At that juncture, the co-ordinate Bench had directed that the trial should be concluded as expeditiously as possible, preferably within a period of one year from date. It is submitted that not a single witness has been examined as yet. As such, the petitioner ought to be enlarged on bail.

Learned counsel for the State opposes the prayer for bail and points out to the tender years of the victim at the time of offence. It is

further submitted that, on the last previous date, the trial was fixed for the evidence of the first witness of the prosecution.

Heard learned counsel for the parties.

It was specifically indicated in the order dated March 22, 2021 that the trial shall be concluded as expeditiously as possible, preferably within a period of one year from date. Unfortunately, till date, even the examination of witnesses appears not to have commenced.

As such, keeping in view that the petitioner is already in custody for three years, ten months and twenty days, despite the previous refusal, in the light of such change of circumstances, we are inclined to grant bail to the petitioner.

Accordingly, CRM (DB) 18 of 2023 is allowed, thereby granting bail to the petitioner on condition that the petitioner furnishes bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Jalpaiguri. 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.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)