

D/L. 37
February 1, 2023
MNS

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

CRM (DB) 21 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 Pundibari Police Station Case No. 620 of 2021 dated 21.11.2021 under Sections 376D/109 of the Indian Penal Code.

And

In the matter of: Biren Sarkar

.... Petitioner

Mr. Swarup Das

... for the petitioner

Mr. A. S. Chakraborty,
Mr. S. S. Sikdar

... for the State

Heard learned counsel for the parties.

The petitioner is in custody for 437 days. The charge-sheet has already been filed.

Learned counsel for the petitioner contends that there was a delay of about 14 days in lodging the complaint. That apart, the trial is also continuing for an indefinite period.

Learned counsel for the State opposes the prayer for bail and contends that due to threat and fear of loss of social prestige, the delay in lodging the complaint occurred, which is not uncommon in such cases. That apart, initially the charges were framed in the year 2021 and charge-sheet was filed thereafter. It is submitted that there was no substantial delay in conducting the trial. At least, it is contended by learned counsel for the State, no bail ought to be granted prior to the adduction of evidence by the victim herself.

Considering the submissions of the parties and taking into account the considerable period of incarceration and the delay in trial as also the fact that the investigation is complete and the charge-sheet has already been filed, we are of the opinion that no substantial purpose would be served in keeping the petitioner further in custody.

Accordingly, CRM (DB) 21 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, Coochbehar. 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.)