

05.06.2023
SL No.7
Court No.1
(gc)

***Circuit Bench of Calcutta High Court
At Jalpaiguri***

CRM (DB) 188 of 2023

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Dhupguri Police Station Case No.685 of 2022 dated 09.12.2022 under Section 10 of the POCSO Act and subsequently added Section 6 of the POCSO Act and corresponding to POCSO Case No.158 of 2022.

And

In the matter of : **Abdul Kader**

- Petitioner.

Mr. Sudip Guha

... For the Petitioner.

Mr. Abhijit Sarkar,

Ms. Sukanya Adhikary,

... For the State

The petitioner is in custody since 9th December, 2022. The earlier application was rejected on 28th February, 2023. This application has been filed on 2nd May, 2023.

The learned Counsel for the State has submitted that charge-sheet has been filed on 4th February, 2023.

The learned Counsel for the petitioner submits that the only change in circumstances since the last order of rejection is that there has been no progress in the trial.

We have read the earlier order of rejection. It is clearly stated in the earlier order that the statement of the minor recorded under Section 164 of the Cr.P.C. implicates the petitioner in the offence of penetrative sexual assault and having regard to the gravity of the offence the earlier bail petition was rejected. We do not find

the delay in framing the charges is so fatal which could enure to the benefit of the petitioner for the purpose of consideration of bail at this stage having regard to the gravity of the offence disclosed.

Accordingly, the prayer for bail is, thus, rejected.

The learned Counsel for the petitioner submits that the minor has denied medical examination. However, these matters are required to be considered at the time of framing of charges.

We request the learned Judge, Special Court (Under POCSO Act), 2nd Court, Jalpaiguri to frame charges within one week from the date of communication of this order unless it has already been framed earlier and in the event the charges are framed then to proceed with the trial as expeditiously as possible without granting any adjournment to either of the parties.

Accordingly, the bail application being CRM (DB) 188 of 2023 is disposed of.

All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

(Raja Basu Chowdhury, J.)

(Soumen Sen, J.)