

08.05.2023
SSS (10)

IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CRIMINAL MISCELLANEOUS JURISDICTION

C.R.M.(DB) 209 of 2023

In the Matter of : Utsav Lepcha.

.... Petitioner.

Mr. Joyjit Choudhury,
Mr. Rohit Agarwal

.....For the petitioner.

Mr. Milindo Paul,
Mr. Nabankur Paul,
Ms. Bedasruti Bose

.....For the Opposite Party
No. 2.

Mr. Aditi Shankar Chakraborty,
Mr. Kallol Nag

.....For the State.

This is an application for grant of bail filed under Section 439 of the Code of Criminal Procedure, 1973 in connection with F.I.R. No. 196 of 2021 dated 5th April, 2021 under Sections 376D/354B of the Indian Penal Code, 1860 pending before the court of learned Additional Chief Judicial Magistrate, Siliguri.

Earlier applications for bail were rejected by this court. In one of those orders made on 13th January, 2023 this court made a direction for conclusion of trial within three months from the date of the order. Furthermore, learned counsel for the petitioner relies upon the report dated 12th October, 2022 of the Regional Forensic Science

Laboratory which tends to suggest that no discharge from the body of the accused was found in the items –“(A) One light pink colour blouse, (B) One off white colour petticoat, (C) One yellow colour sharee, (D) One brown colour bra” of the victim.

Learned counsel for the petitioner submits that the prosecution proposed to examine 17 witnesses and till date only 5 witnesses have been examined. The time period fixed by the learned judge is over. Moreover, the above report which the prosecution seeks to rely upon in the supplementary charge sheet is favourable to the petitioner.

The petitioner is in custody for about two years and one month.

Under the above changed circumstances, we are of the view that custodial trial is not required and the petitioner be released on bail. Accordingly, we allow this application for bail on the following terms and conditions:

The petitioner will be enlarged on bail upon furnishing a bond of Rs. 10,000/- (Ten Thousand) with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Siliguri on the following conditions:

1. The petitioner shall deposit his passport, if he has one, with the investigating officer,
2. He shall report before the said officer as and when summoned,

3. The petitioner shall not leave the limits of the District Darjeeling where he resides without informing the I.C.,
4. He shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.
5. The petitioner shall attend the court on each and every day of trial, in default, the court shall be at liberty to cancel the bail bond without any reference to this bench.

The application for bail [CRM (DB) 209 of 2023] is, accordingly, disposed of.

(I.P. MUKERJI, J.)

(ANANYA BANDYOPADHYAY, J.)

