

05.06.2023
Court No.01
Item No. 17
Rejected
sg

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

CRM (DB) 233 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with New Jalpaiguri Police Station Case No. 242 of 2022 dated 14.03.2022 under Section 6 of POCSO Act.

And

In Re: **Biplab Roy**

Petitioner

Mr. Joydeep Kanta Bhowmik
Mr. Sayantan Bhowmik
Ms. Rikta Sarkar

For the Petitioner

Mr. Hillol Acharjee
Mr. Biswarup Roy

For the State

Affidavit of service filed in Court is taken on record.

The learned Counsel for the petitioner submits that the earlier order dated 5th January, 2023 must not stand in the way in revisiting the prayer for bail since there has been no commencement of trial in spite of a direction passed by this Court on 5th January, 2023. It is submitted that the coordinate Bench while rejecting the prayer for bail has recorded that if there is inordinate delay in the conduct of the trial, the petitioner shall be entitled to pray for appropriate orders.

It appears from the materials available on record that the learned Judge Special Court under POCSO Act, 2nd Court, Jalpaiguri had fixed 2nd February, 2023 for evidence of CSW 01 and production of accused.

It is submitted that CSW 01 was not examined on that date. It is further submitted that even today, the examination of the witness has not been commenced. The charge sheet has already been filed.

In view of the fact that the charge has already been framed and the victim girl has not been examined, the petitioner may renew the prayer for bail after completion of the examination of the victim and the medical officer.

The prosecution must ensure the appearance of the victim and the medical officer for examination on the date to be fixed by the learned trial court immediately on communication of this order and the trial court shall invoke the power under section 309 of the Cr.PC and proceed with the trial as expeditiously as possible.

The application for bail of the petitioner is rejected. CRM (DB) 233 of 2023 is accordingly, 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)