

14.06.2023
Court No.01
Item No.2

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

sg

CRM (DB) 312 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Jalpaiguri Women Police Station Case No. 27 of 2015 dated 18.02.2015 under Section 376(2)(i) of IPC read with Section 4 of POCSO Act.

And

In Re: **Bacchan Jahaddhar**

Petitioner

Mr. Kallal Ghosh
Mr. Rajkumar Gupta
Mr. Dhana Singha Sarkar
Mr. Kishan Sah
Mr. Rakesh Gupta
Mr. Utpal Dutta

For the Petitioner

Mr. Aditi Shankar Chakraborty
Mr. Sagnik Sankar Sikdar

For the State

The learned Counsel for the petitioner submits that the petitioner is in custody for almost eight years and after the evidence of the witnesses was concluded, the learned Trial Court on 28th April, 2023 issued a summon for re-examination of CSW 10 namely, K.L. Sherpa, Child Development Protection Officer, without there being a formal order for recalling of the said witness.

The learned Counsel for the State, in opposing the prayer for bail, has strongly relied upon the statement of the victim recorded under Section 164 of the Code of Criminal Procedure. It is submitted that the trial is at the very advanced stage and only one witness is now left to be examined.

Considering the aforesaid fact that the trial is almost concluded and only one witness i.e. K.L. Sherpa is now required to examine and cross-examine, we direct K.L. Sherpa to be present on the date fixed for recording of evidence of the said witness and the said witness shall also be cross-examined on that date and the evidence of the said witness should be concluded on the date fixed and no adjournment shall be granted to any of the parties on that date.

We would request the learned Trial Judge to dispose of the matter within two months after conclusion of the evidence. Moreover, we have taken into consideration that the said witness was present on 20th July, 2018 but due to non-availability of the defence counsel, the witness could not be examined. The delay is attributable to the petitioner.

We direct the defence counsel to be present on that date.

The name of the victim should be redacted from the charge-sheet already filed and the records of this Court.

With the above directions, CRM (DB) 312 of 2023 is disposed of.

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

(Raja Basu Chowdhury, J)

(Soumen Sen, J)