

30.08.2023
Item no.14
Court No.01
P.P./S.D.

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

CRM (DB) 489 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure;

And

In Re: Zohmangaih @ Zohmangaiha

.... petitioner

Mr. Swarup Das

....for the petitioner

Mr. Aditi Shankar Chakraborty, Ld. APP,

Mr. Ujjal Luksom

Mr. Sagnik Sankar Sikdar

..... for the State

Affidavit of service filed in Court today be kept with the records.

The present application under Section 439 of the Code of Criminal Procedure has been preferred in connection with Kurseong Police Station Case No.138 of 2022 dated 25.12.2022 under Sections 448/376(2)(c)/511 of the Indian Penal Code read with Section 10 of the POCSO Act, 2012.

Mr. Das, learned advocate appearing for the petitioner submits that the petitioner has already suffered long incarceration for 248 days and there is no possibility towards early conclusion of the trial. In view thereof, the petitioner may be enlarged on bail on any stringent condition.

Mr. Das further submits that the petitioner has a family consisting of his wife and two daughters and there is no possibility that he would flee from justice.

Such prayer has, however, been opposed by Mr. Chakraborty, learned Additional Public Prosecutor appearing for the State. He submits that the offence is grave. The petitioner belongs to a discipline Force and in view thereof, the petitioner's prayer needs to be refused.

We have heard the learned advocates appearing for the respective parties. Records reveal that the petitioner's prayer for bail was earlier rejected by a Coordinate Bench of this Court on 11.4.2023 and again by the learned Judge, under POCSO Act, Kurseong by an order dated 15.5.2023. We do not find any substantial change in the circumstance thereafter.

Considering the materials in the Case Diary, the gravity of the offence, and the extent of complicity of the petitioner in the alleged offence, we are not inclined to exercise discretion in his favour at this stage.

Answering our query, Mr. Chakraborty has submitted that there are in total 8 witnesses out of whom, 3 had already been examined. In view thereof, we take notice of such issue and direct the learned Trial Court below to expeditiously conduct trial and if necessary upon resorting to the steps available under Section 309 of the Cr.P.C. so that logical conclusion of this case may be reached at the earliest, preferably within a period of 6 months from date. In doing such exercise,

the learned Court below would be free to fix consecutive dates for examination of the witnesses.

With the above observations and directions, the application being CRM (DB) 489 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.

(Lapita Banerji, J.)

(Tapabrata Chakraborty, J.)