

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

08.09.2023

Item no.24
Court No.01
Avijit Mitra

CRM (DB) 526 of 2023

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

And

In Re : Dhiren Barman

.... petitioner

Mr. Joydeep Kanta Bhowmik,

Ms. Rikta Sarkar,

....for the petitioner

Mr. Abhijit Sarkar,

Ms. Sukanya Adhikary

..... for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred in connection with New Jalpaiguri Police Station Case No.421 of 2022 dated 02.05.2022 under Section 6 of POCSO Act.

By an order dated May 01, 2023, a Co-ordinate Bench of this Hon'ble Court disposed of CRM (DB) 151 of 2023 with the observation that the learned Trial Court below shall proceed expeditiously with the trial so that the same is concluded preferably within three months from date. It was further observed that in the event the trial was protracted, the petitioner would have the liberty to apply afresh for bail.

Upon perusal of the order dated August 05, 2023 this Court finds that September 29, 2023 has been scheduled for production and evidence of the victim girl. It also finds that after

the order of the Co-ordinate Bench dated May 01, 2023 was intimated to the learned Trial Court, the date of trial was fixed on June 28, 2023. Since the case diary was not sent from the Hon'ble High Court it was not possible for the Trial Court to examine the victim girl on that date even though she was present. The next date was fixed on July 29, 2023 for evidence of the victim girl. Since the date fixed for examination of the victim girl was declared to be a holiday, the records were put up on July 31, 2023 when September 29, 2023 was fixed for production and examination of the victim girl.

In the meantime, a petition for bail was moved on behalf of the accused/petitioner on August 05, 2023. The same was rejected considering the nature and the gravity of the offence.

After considering the way the Trial Court has sought to proceed in the matter, this Court finds that the trial was not protracted due to any inaction on the part of the State. It has also taken into account the allegations made in the FIR, the nature and the gravity of the offence and the statement made by the victim girl under Section 164 of the Code of Criminal Procedure and is not inclined to grant bail to the petitioner, at this stage.

Accordingly, the application for bail being **CRM (DB) 526 of 2023 is dismissed.**

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.)