

D/L. 21
September 12, 2023.
MNS

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CRM (DB) 548 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 04.09.2023 in connection with Matigara Police Station Case No. 934 of 2019 dated 03.11.2019 under Section 6 of the POCSO Act, read with Sections 379/506/34 of the Indian Penal Code, 1860.

And

In the matter of: Barun Oraon

.... Petitioner

Mr. Arunava Paul

... for the petitioner

Mr. Sourav Ganguly,
Mr. Chattu Roy

... for the State

1. Learned counsel for the petitioner submits that the petitioner is in custody for more than two years. It is submitted that process has not issued as yet merely on the ground that other co-accused persons are absconding, and the trial is being prolonged indefinitely, thereby curtailing the liberty of the petitioner.
2. Learned counsel for the State opposes the prayer for bail and submits that the alleged offences committed by the petitioner are heinous in nature.
3. We agree with the fact that the alleged offences against the petitioner are undoubtedly heinous in nature.

4. However, at the same time, we also keep in balance the fact that process has not yet been issued and the trial has not yet commenced. The petitioner could not be made to suffer incarceration indefinitely on the ground of non commencement of trial.
5. However, since co-accused persons are absconding, we do not find any justification immediately to grant the petitioner bail.
6. Accordingly CRM (DB) 548 of 2023 is disposed of by directing the trial court to take immediate steps, including compliance of due legal process for issuance of process and proclamation and to ensure that the trial is commenced at the earliest and is disposed of as expeditiously as possible.
7. Liberty is granted to the petitioner to renew his prayer for bail after three months in the event sufficient steps are not taken by then by the trial court to expedite the conclusion of the trial.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)