

25.09.2023
Court No.1
SL No.17
pk/AP

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

CRM(DB) 591 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Maynaguri** P.S. Case No.**87 of 2021** dated **23.02.2021** under Section **4** of the POCSO Act.

And

In the matter of: **Dipak Roy**

....Petitioner.

Ms. Rupa Basu

...For the Petitioner.

Mr. Aditi Shankar Chakraborty
Mr. Abhijit Sarkar
Mr. Arjun Chowdhury

...For the State.

1. The application for bail is made for the third time. The petitioner is in custody for more than 900 days. The fourth time application for bail is canvassed by placing reliance on three decisions of Coordinate Benches.

2. The first decision is dated 11.06.2020 passed in CRM No. 3676 of 2020. In the said case the victim had admitted a love affair with the accused. The medical report obviously would not indicate any injury. The said case has no relevance in the facts and circumstances of the case.

3. The second decision is dated 06.10.2020 passed in CRM 6100 of 2020. In the said case, the coordinate Bench has noted

that the medical report did not indicate any injury on the victim. The age of the victim and the accused are not available before this Court. The said decision cannot be a precedent.

4. The third decision is dated 12.07.2023 passed in CRM (DB) 408 of 2023 by a Coordinate Bench. The Court was persuaded by the length of time, which the petitioner was in custody. The age of the victim and that of the accused are once again not available.

5. It is true in the instant case that the petitioner is in custody is more than 900 days. This Court notes that the victim was 13 years old at the relevant point of time and the accused was 23 years old. The trial has commenced. The complainant, mother of the victim has deposed in evidence. The victim has also deposed.

6. This Court notes that the victim used to refer to the petitioner as 'Kaku' (uncle). The allegation of the petitioner that the victim has been tutored and, therefore, cannot be sustained in the facts of the case. There are no allegations of any motive behind the registration of the FIR and the case.

7. In the backdrop of the aforesaid circumstances, this Court is not inclined to grant bail to the petitioner.

8. Accordingly, the application for bail is hereby rejected.

9. Given the fact that the petitioner is in custody for more than 900 days, this Court directs the other eight witnesses to be examined to the extent that the State wants to bring them as

witnesses within a period of four months from date mandatorily and positively.

10. It is, however, made clear that the Court below shall complete the trial within a period six months from date mandatorily and positively.

11. The Public Prosecutor shall render all assistance to the Court to ensure that the aforesaid direction is complied with.

(Rajasekhar Mantha, J.)

(Supratim Bhattacharya, J.)