

08.04.2024
Sl. No.20
akd
[ALLOWED]

C. R. M. (DB) 249 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 15.01.2024 in connection with Polba Police Station Case No.222 of 2022 dated 14.12.2022 under Section 376DA of the Indian Penal Code read with Section 6(1) of the POCSO Act.

And

In Re: ***Bijoy Roy @ Bijay Ray & Anr.***

... .. Petitioners

Mr. Navanil De
Mr. Srinjan Ghosh
Ms. Monami Mukherjee

... .. for the petitioners

Mr. Joydeep Roy .. Jr. Govt. Advocate
Ms. Baisakhi Chatterjee

... .. for the State

1. Pursuant to our earlier direction, Investigating Officer is personally present before this court. His presence is noted and dispensed with.
2. It is submitted on behalf of the petitioners that there is inordinate delay in lodging FIR. Allegation of rape by the petitioners who are related to each other as father and son and another person is patently absurd. Vulnerable witness has been examined. There is no possibility of trial concluding in the near future. Accordingly, they pray for bail.
3. Report is placed on record. From the report it appears vulnerable witness has been examined.
4. Learned Advocate for the State opposes the prayer for bail.
5. We have considered the materials on record. Vulnerable witness has been examined. They contend there is inordinate delay of over a year in lodging FIR. Though victim alleged gang rape, she kept mum for more than six months and came out with the incident only after she found she was pregnant. Credibility of the victim requires to be

assessed in the light of the aforesaid aspects during trial. There is no possibility of trial concluding in the near future. Under such circumstances, we are of the opinion further detention of the petitioners is not necessary.

6. Therefore, the petitioners, namely **(1) Bijoy Roy @ Bijay Ray & (2) Toton Roy @ Kumar Roy**, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only) each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the POCSO Act-cum-Additional District & Sessions Judge, 2nd Court, Chinsurah, Hooghly subject to condition that the said petitioners shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.
7. In the event they fail to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel their bail automatically without reference to this court.
8. The application for bail, thus, stands allowed.

(Prasenjit Biswas, J.)

(Joymalya Bagchi, J.)