

19.02.2024
Sl. No.58
akd
[Rejected]

C. R. M. (DB) 490 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 07.02.2024 in connection with AJC Bose Road B. Garden Police Station Case No.172 of 2020 dated 10.10.2020 under Sections 376/376AB of the Indian Penal Code read with Sections 4/6/8 of the POCSO Act.

And

In Re: **Avijit Sen @ Bulta**

... .. Petitioner

Mr. Achin Jana
Mr. Prosenjit Ghosh

... .. for the petitioner

Ms. Paromita Malahar (Dutta)
Mr. Shyamsundar Chakraborty
Ms. Sneha Das

... .. for the de-facto complainant

Mr. S. S. Imam
Mr. S. S. Saha

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for more than three years. It is further submitted offence of penetrative sexual assault has not been established. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail.
3. Learned Advocate for the de-facto complainant/victim also opposes the prayer for bail.
4. We have considered the materials on record including the evidence of the minor. She stated petitioner had inserted his finger into her private parts. The aforesaid evidence prima facie establishes the charge of penetrative sexual assault. History of sexual assault as narrated in the medical papers also corroborate the prosecution case. Under such circumstances and as the offence attracts a

minimum sentence of twenty years of rigorous imprisonment, we are not inclined to grant bail to the petitioner at this stage.

5. The application for bail is thus rejected.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)