

10.04.2024.
16.
Ct.No.28.
as
(Allowed)

C.R.M. (DB) 797 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Berhampore P.S. Case No.213 of 2021 dated 03.03.2021 under Section 376AB of the Indian Penal Code and Section 4 of the POCSO Act.

In the matter of : **Sukhen Karmakar.**

.... Petitioner.

Mr. Ali Ahasan Alamgir,
Ms. Soma Mal,
Ms. Rabia Khatoon.

...for the Petitioner.

Mr. Ananda Keshari.

...for the State.

Ms. Zoethan Uvi Jarte,
Mr. Rameshwar Sinha.

...for the Victim Girl.

1. Report is placed on record. Report shows inspite of direction given by this Court to examine the victim on 2nd April, 2024 she has not been examined.
2. Learned Advocate for the victim contends she is traumatized.
3. We have considered the materials on record. Petitioner is in custody for more than three years. On repeated occasions dates were fixed for examination of the victim. However, she did not turn up. Even on 02.04.2024 inspite of direction given by this Court to examine the victim, she was not examined. Though the allegations are serious and involve penetrative sexual assault on the minor, an accused cannot be kept in detention interminably awaiting examination of a victim.

4. In view of the aforesaid facts, we are of the opinion further detention of the petitioner is not necessary and he may be released on bail subject to conditions.

5. Accordingly, the petitioner viz., **Sukhen Karmakar** shall be released on bail upon furnishing a bond of Rs.10,000/- 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, Berhampore, Murshidabad subject to condition that he 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 and on further condition that the petitioner while on bail shall not enter the jurisdiction of Berhampore Police Station except for the purpose of court proceeding and shall provide the address where he shall reside to the Investigating Officer as well as the jurisdictional court and report to the Officer-in-charge of the Police Station concerned within whose jurisdiction he shall reside once in a week until further orders.

6. In the event the petitioner fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

7. This application for bail is, thus, disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

