

02.05.2024
Sl. No.21
akd
[ALLOWED]

C. R. M. (DB) 1021 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 28.03.2024 in connection with Bishnupur Police Station Case No.277 of 2018 dated 18.04.2018 under Sections 363/365/376(2)(I) of the Indian Penal Code and Section 6 of the POCSO Act.

And

In Re: **Rafik Sekh @ Rafiq Sk.**

... .. Petitioner

Mr. Deepak Prahladka
Ms. Reshmi Khatun

... .. for the petitioner

Mr. Arani Bhattacharyya

... .. for the victim

Ms. Zareen N. Khan
Mr. Ratul Ghosh

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for more than six years. It is further submitted there is inordinate delay in trial. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits victim is a special child.
3. Learned Advocate for the victim also opposes the prayer for bail.
4. We have considered the materials on record. Allegations are serious. It is alleged minor with special needs was raped. But petitioner is in custody for more than six years. There is no possibility of trial concluding in the near future. Vulnerable witness i.e. the minor has been examined. Under such circumstances, we are of the opinion fundamental right to speedy trial of the petitioner has been infringed and he is entitled to bail on this score.
5. Therefore, the accused/petitioner, namely **Rafik Sekh @ Rafiq Sk.** be released on bail upon furnishing a bond of Rs.10,000/- (Rupees

Ten thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Alipore, South 24-Parganas subject to condition that the said petitioner 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 remain within the district of South 24-Parganas and shall report to the Officer-in-charge, Bishnupur Police Station once in a week until further orders.

6. In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.
7. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)