

26.04.2024
Sl. No.16
akd
[ALLOWED]

C. R. M. (DB) 1075 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 02.04.2024 in connection with Itahar Police Station Case No.177 of 2021 dated 26.04.2021 under Sections 376(3)/306 of the Indian Penal Code read with Section 6 of the POCSO Act and subsequently charge sheet submitted under Sections 376(3)/305 of the Indian Penal Code read with Section 4 of the POCSO Act.

And

In Re: ***Hasen Ali @ Hassen Ali***

... .. Petitioner

Mr. Kazi M. Rahman

... .. for the petitioner

Mr. Tanmoy Kr. Ghosh

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about three years. It is further submitted petitioner has been falsely implicated. Witnesses did not turn up. Witness warrant had to be issued. There is no possibility of trial concluding in the near future. Accordingly, he renews his prayer for bail.
2. Learned Advocate for the State opposes the prayer for bail.
3. In spite of notice, nobody appears on behalf of the father of the deceased.
4. We have considered the materials on record. Allegations involve rape of a minor who subsequently committed suicide. Allegations are serious. But trial is progressing at a very slow pace. No witness had turned up. Witness warrant had to be issued. After witness warrant was recalled, witnesses again failed to turn up on a number of days. In view of the aforesaid circumstances, we are constrained to observe that fundamental right of the petitioner to speedy trial has been infringed and he is entitled to bail on this score.

5. Therefore, the accused/petitioner, namely ***Hasen Ali @ Hassen Ali***, 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 Judge, Special Court under the POCSO Act, Raiganj, Uttar Dinajpur 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.
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.)