

11.
Court
No.28

15.07.2024

(Tanmoy)

Allowed

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (DB) 1900 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973, in connection with C/Spl Case No. 18 of 2021 arising out of **Berhampore Police Station Case No.63 of 2021** dated **18.01.2021** under Sections **363/365/376/34** of the Indian Penal Code, read with Sections **4/6** of the POCSO Act, 2012.

And
In the matter of: - **Rajendra Sarkar**

...petitioner.

Mr. Arnab Chatterjee, Adv.,
Mr. Anisur Rahaman, Adv.

...for the petitioner.

Mr. Subhamay Bhattacharya, Adv.,
Mr. M.F.A. Beigg, Adv.

...for the State.

The petitioner renews his prayer for bail. His prayer was rejected once on March 13, 2023 and then again on September 6, 2023.

The petitioner says that he is in custody for two years and four months. Charge has not been framed. Even copy has not been supplied till date.

Learned Advocate for the State, while opposing the prayer for bail, says that August 30, 2024, has been fixed as the date for supplying copy.

We have seen the material in the case diary. The statement of the victim girl recorded under Section 164 of the Code of Criminal Procedure, 1973, is not at all supported by the medical examination report. It is anybody's guess as to when the trial will conclude. We cannot lose sight of a citizen's fundamental right to personal liberty and speedy trial as contemplated under Article 21 of the Constitution of India.

Accordingly, on a *prima facie* assessment of the material on record and also considering the period of detention of the petitioner, we are inclined to grant bail to the petitioner.

Accordingly, we direct that the petitioner, namely, **Rajendra Sarkar**, shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court (under POCSO Act), Berhampore, Murshidabad, subject to condition that –

1. The petitioner shall appear before the Trial Court on each and every date of substantive hearing subject to the provisions of Section 317 of the Code of Criminal Procedure, 1973, and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.
2. The petitioner shall not enter the jurisdiction of Berhampore Police Station, except for the purpose of attending Court proceedings, till conclusion of trial unless such conditions have been relaxed by the Trial Court.
3. The petitioner shall furnish the present address where he will be residing to the Officer-in-charge of the Berhampore Police Station immediately after being released on bail and shall also meet the Officer-in-Charge of the jurisdictional Police station, where he will be residing, once in every week until further orders.

4. The petitioner shall not intimidate/threaten the victim girl and her family members in any manner whatsoever.

In the event the petitioner fails to adhere to any of the conditions stipulated above without any justifiable cause, the Trial Court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this Court.

The application for bail being CRM (DB) 1900 of 2024 is accordingly disposed of.

Criminal Section is directed to supply urgent photostat certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)