

08
09-07-2024
(ct. no.28)
KOLE
Allowed

CRM (DB) 1975 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Howrah Women Police Station** Case No. **61 of 2018** dated **07.09.2018** under Sections **376/506/315/201/** of the Indian Penal Code and Sections 4/6/8/12 of the POCSO Act.
- A n d -

In the matter of : Niranjan Maity

.... Petitioner.

Mr. Shatarup Purkayastha,
Ms. J. Bhattacharyya,
Ms. S. Dutta,

... For the petitioner.

Mr. Sujan Chatterjee,

... For the State.

Order dictated in open court by Apurba Sinha Ray, J.

The State served notice of this application on the defacto complainant. However, none appears for the defacto complainant. Let the service report be kept with the records.

Learned Advocate for the petitioner says that he has been languishing in judicial custody for about five years and ten months. Vulnerable witnesses have already been examined. He further submits that considering his period of detention he may be enlarged on bail on any condition since seven witnesses have been examined out of thirteen.

Learned Advocate for the State raises strong objection. According to him there are sufficient incriminating materials

against the present petitioner. He has also pointed out that the petitioner is the step-father of the victim and he committed rape upon the victim on several occasions and as a result she became pregnant. Subsequently, her pregnancy was aborted. The petitioner's prayer for bail should not be allowed on any condition since the prosecution is going to complete the evidence within a very short time.

We have considered the materials on record. It is true that there are sufficient incriminating materials against the present petitioner. But incarceration for about six years for any accused without the trial being concluded is a black spot of the entire justice delivery system. Therefore, considering the period of detention of the petitioner, we are inclined to allow his prayer for bail on stringent conditions.

Accordingly, we direct that the petitioner, namely, **Niranjan Maity**, 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, Howrah and on further conditions that he shall not enter the jurisdiction of the Howrah police station excepting for the purpose of attending court proceeding and shall not leave the territorial jurisdiction of State of West Bengal without the permission of the learned Trial Court. The petitioner shall meet the Officer-in-Charge of the concerned Police Station once in a fortnight until further orders. The petitioner shall appear before the trial Court on every date of hearing until further

orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to adhere to any of the conditions stipulated above without 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 is, accordingly, allowed.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)