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04-10-2024
(ct. no.28)
KOLE
Allowed

CRM (DB) 2312 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure/Section 483 of the BNSS in connection with **Liluah Police Station Case No. 154 of 2021** dated **07.05.2021** under Sections **376(2)(i)** of the Indian Penal Code and Section 4 of the POCSO Act.

- A n d -

In the matter of : Haru Gopal Goswami

.... Petitioner.

Mr. Soumya Basu Roychowdhury,

.... For the petitioner.

Ms. Afreen Begum,

... for the defacto complainant.

Mr. Ranadeb Sengupta,

Mr. A. Bhattacharyya,

... For the State.

Order dictated by Arijit Banerjee, J.:

1. Report filed by the State and copies of the deposition of PW Nos. 1 and 2 filed in Court today be kept with the records.
2. The petitioner says that he is in custody for about three years five months. Only 2 out of 13 charge sheet named witnesses have been examined. The vulnerable witnesses have already been examined. He renews his prayer for bail which was last rejected on August 2, 2022, on the ground of delay in progress of trial.
3. Opposing the prayer for bail, learned State Advocate draws our attention to the deposition of the victim girl and the defacto complainant being her mother. *Prima facie* both of them implicated the petitioner. The medical report is, however, inconclusive.
4. It cannot be said that there is no incriminating evidence against the petitioner. However, we cannot also be oblivious of a

citizen's fundamental right to personal liberty and speedy trial as enshrined in Article 21 of the Constitution of India. The prosecution may have a very strong case against the petitioner. Nobody stands in the way of the prosecution securing the petitioner's conviction at the completion of the trial. However, an under trial cannot be kept in incarceration for an indefinite period of time without carrying the trial to its logical conclusion.

5. Since we find that the victim and the defacto complainant have already been examined, we are inclined to enlarge the petitioner on bail, solely on the ground of delay in progress of trial.

6. Accordingly, we direct that the petitioner, namely, **Haru Gopal Goswami**, 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 Special Judge under the POCSO Act, Howrah subject to condition that he shall appear before the trial court on each and 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 Liluah Police Station and shall not leave the jurisdiction of district Howrah and shall meet the officer in charge of the Howrah Police Station once in a week until further order.

7. 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.

8. The application for bail is, accordingly, allowed.

9. 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.)