

29.08.2024
Item no. 25.
Court No.28.
AB
(Allowed)

CRM (DB) 2387 of 2024

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure, 1973/Under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Tehatta Police Station Case No.454 of 2020 Dated 18.10.2020 under 376AB/506/34 of the Indian Penal Code and Section 6 of the POCSO Act

And

In the matter of : Swarajit Mondal

.....Petitioner.

Mr. Bibhaswan Bhattacharya,
Mr. Asraf Mondalfor the Petitioner.

Mr. Iqbal Kabir,
Mr. Akash Gangulyfor the State.

Dictated by Arijit Banerjee, J.

1. From the affidavit of service filed in Court today, we find that the defacto complainant has been served. However, nobody appears for her.
2. The petitioner says that he has been falsely implicated. He is in custody for three years and ten months. Only 2 out of 11 witnesses have been examined. Both the vulnerable witnesses, being the victim girl and her mother, have exonerated him in their depositions recorded before the learned Trial Court. He prays for bail.
3. Learned Advocate for the State, while opposing the prayer for bail, says that the petitioner's prayer for bail

was rejected earlier by a Coordinate Bench on February 29, 2024. There is sufficient evidence against the petitioner.

4. Apart from the inordinate delay in progress of the trial, we find from the depositions of the victim girl and her mother that they have indeed exonerated this petitioner. The victim girl has been declared hostile by the prosecution.
5. In view of the aforesaid, we are inclined to allow the petitioner's prayer for bail.
6. Accordingly, we direct that the petitioner, namely **Swarajit Mondal** 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 at Tehatta, Nadia, and on further conditions that he shall not leave the jurisdiction of the concerned police station and shall report to the Officer-in-Charge of the concerned police station once in a fortnight until further orders.
7. 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 and/or commit any cognizable offence in any manner whatsoever.

8. 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.
9. The application for bail is, accordingly, allowed.
10. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)