

13.
Court
No.28

03.09.2024

(Tanmoy)

Allowed

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (DB) 2448 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 / Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with **Amta** Police Station Case **No.25/2022** dated **03.02.2022** under Section **376(3)** of the Indian Penal Code and Section **6** of the POCSO Act, 2012. Subsequently Charge-sheeted under Sections **376(3)/306/511** of the Indian Penal Code read with Section **4** of the POCSO Act, 2012.

And

In the matter of: - **Sk Imroj Mallick @ Sain Mallick**

...petitioner.

Mr. Habibur Rahaman
Mr. Sumit Naskar
Mr. Kaustav Roy

...for the petitioner.

Mr. Kunal Ganguly

...for the State.

Dictated by Arijit Banerjee, J.

1. Service report filed by the State be kept with the records. In spite of service of this bail application being effected on the *de facto* complainant/victim, nobody appears on her behalf.
2. The petitioner renews his prayer for bail which was earlier rejected by a co-ordinate Bench on September 28, 2022, in CRM (DB) 3285 of 2022.
3. The petitioner says that he has been in custody for more than two years and six months. Only eight out of 19 charge-sheet named witnesses have been examined. There is no possibility of an early conclusion of the trial. In any event, he has been framed. He was not involved in the alleged incident.

4. While opposing the prayer for bail learned Advocate for the State draws our attention to the statement of the victim girl recorded under Section 164 of the Code of Criminal Procedure, 1973. We have also seen the medical examination report, where no injury is mentioned.
5. We are also told that vulnerable witnesses have all been examined.
6. In view of the lengthy incarceration of the petitioner and since there does not appear to be any chance of the trial concluding at an early date and also keeping in mind that vulnerable witnesses have been examined, we are inclined to allow the petitioner's prayer for bail.
7. Accordingly, we direct that the petitioner, namely, **Sk Imroj Mallick @ Sain Mallick** 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 Additional Sessions Judge, 1st Court (Special Court) at Uluberia, Howrah, subject to condition that 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 / Section 355 of Bharatiya Nagarik Suraksha Sanhita, 2023, and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.
8. 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 his bail in accordance with law without further reference to this Court.

9. The application for bail being CRM (DB) 2448 of 2024 is accordingly disposed of.

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

(Arijit Banerjee, J.)

(Prasenjit Biswas, J.)