

19.11.2024
Item no. 12.
Court No.29.
AB
(Allowed)

CRM (DB) 2460 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 Jalangi Police Station Case No.261 of 2021 Dated 15.09.2021 under Section 6(1) of the POCSO Act

And

In the matter of : Rajesh Mondal @ Sahajamal Mondal

.....Petitioner.

Mr. Milan Mukherjee, Sr. Adv,
Mr. Jakir Hussain,
Mr. M. H. Choudhury,
Ms. Chandrima Debnathfor the Petitioner.

Ms. Subhasree Patel,
Mr. Asraf Mondalfor the State.

Mr. Siddhartha Sarkarfor the Defacto complainant.

Dictated by Arijit Banerjee, J.

1. The petitioner renews his prayer for bail, which was rejected earlier on February 9, 2023. He says that he is in custody for over three years and one month. Only 4 out of 14 charge sheet named witnesses have been examined. All vulnerable witnesses have been examined. There is no reason to detain him in custody any further.
2. Learned Advocate for the State and learned Advocate for the defacto complainant oppose the prayer for bail. They draw our attention to the deposition of the victim girl, who does implicate this petitioner. However, that is a question of merit. We see that the petitioner is in

custody for a very long period of time. 10 of the charge sheet named witnesses are yet to be examined. There is very little possibility of an early conclusion of the trial.

3. We put on record submission made on behalf of the defacto complainant that the petitioner's family members are influential people and they have threatened the defacto complainant and his family members. A complaint has been lodged in that regard by the defacto complainant.
4. The prosecution may have a very strong case to secure the conviction of the petitioner. Nobody stands in the way of the prosecution doing so. However, the fundamental right of an under-trial to personal liberty and speedy trial as enshrined in Article 21 of the Constitution of India must override all considerations. An accused cannot be kept in incarceration for an indefinite period of time pending conclusion of the trial.
5. Without touching the merits of the case and solely on the touchstone of Article 21 of the Constitution of India, we feel constrained to allow the petitioner's prayer for bail.
6. Accordingly, we direct that the petitioner, namely **Rajesh Mondal @ Sahajamal 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 Berhampore, Murshidabad, and on further conditions that he shall not enter the jurisdiction of Jalangi Police Station except for attending the court proceedings and shall provide the address where he shall presently reside to the Officer in Charge of the Berhampore Police Station and shall meet the Officer in Charge of the Berhampore Police Station once in a week until further orders. While on bail, the petitioner shall remain within the jurisdiction of Berhampore Police Station 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.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)

