

29.08.2024
Item no.39.
Court No.28.
S. De
(Allowed)

CRM (DB) No. 2485 of 2024

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure in connection with **Sankrail Police Station Case No. 1013 of 2020** dated **29.10.2020** under **Sections 376(2)(n)** of the Indian Penal Code and under **Section 6** of the Protection of Children from Sexual Offences Act, 2012.

And

In the matter of : Raghunath Das.

.....Petitioner.

Mr. Shataroop Purkayastha,
Ms. Jagriti Bhattacharyya,for the Petitioner.

Mr. Anand Keshari,
Mr. Soumadip Saha,for the State.

Mr. Krishnendu Bhattacharya,
Mr. Priyamkar Ganguly,
Ms. Shalini Bairagi,
Mr. Rounak Majumder, ...for the victim.

Dictated by Arijit Banerjee, J.

1. The petitioner complains that he is in custody for over three years. Only 3 out of 7 charge-sheet named witnesses have been examined. He has been falsely implicated. It is anybody's guess as to when the trial will conclude. He prays for bail.
2. Opposing the prayer for bail, learned advocates for the State and the de facto complainant draw our attention to the relevant material in the case diary. We have seen the witness statements recorded under Section 164 Cr.P.C. We have also seen the

deposition of the vital witnesses including the victim girl and her mother.

3. The prosecution may have a very strong case. We do not comment on the merits of the case. However, an undertrial cannot be kept in incarceration for an indefinite period of time. More than three years the petitioner is in judicial custody. We see little chance of an early conclusion of the trial.
4. The paramount importance of a citizen's fundamental right to personal liberty and speedy trial can hardly be overemphasized. Such right must override all other considerations.
5. Accordingly, solely on the ground of delay in progress of the trial, we are inclined to allow the petitioner's prayer for bail.
6. Accordingly, we direct that the petitioner, namely **Raghunath Das** 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 POCSO Act), Howrah and on further conditions that he shall not enter the district of Howrah except for attending the court proceedings and shall provide the address where he shall presently reside to the Officer-in-Charge of the concerned police station within whose jurisdiction he

shall presently reside 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 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.)