

CRM (DB) 2493 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Harwood Point Coastal Police Station** Case No. **170 of 2022** dated **15.05.2022** under Section **376(3)** of Indian Penal Code and Sections 4(2) of the POCSO Act.

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In the matter of : Gokul Das

.... Petitioner.

Mr. Ayan Basu,
Mr. Sandip Kr. Mondal,
Mr. Sumit Routh,

... For the Petitioner.

Mr. Joydeep Roy,
Mr. Soham De Dhara,

... For the State.

Mr. Pawan Kr. Gupta,
Mr. Suman Pathak,

....for the defacto complainant.

Order dictated by Arijit Banerjee, J.:

1. The petitioner renews his prayer for bail which was rejected earlier on August 30, 2023 on merits.
2. The petitioner says that he is in custody for more than two years and three months. Witness action has not yet begun. There are 16 charge sheet named witnesses. On several occasions, the hearing had to be adjourned because the P.W. 1 being the victim girl did not present herself before the learned Trial Court.
3. We find from the records that indeed there was delay on the part of the prosecution. The petitioner is in custody for a long period of time. A citizen's fundamental right to personal liberty and speedy trial cannot be lost sight of. However, that factor has to be weighed and balanced against other factors like the gravity of the charge, age of the victim, medical report, etc.

4. In view of the *prima facie* involvement of the petitioner, a 55 year old person, in the alleged crime of committing rape upon a minor girl, we are not inclined to enlarge the petitioner on bail, at this stage.

5. CRM (DB) 2493 of 2024 is, thus, dismissed.

6. However, the learned Trial Court is directed to complete the evidence of the vulnerable witnesses within two months from the date of communication of this order by the parties to the learned Trial Court, if necessary, by preponing the next date, which, we are told is September 13, 2024.

7. 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.)