

03.09.2024
Item no. 20.
Court No.28.
AB
(Rejected)

CRM (DB) 2532 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 Raiganj Women Police Station Case No.55 of 2022 Dated 10.04.2022 under Sections 6 of the POCSO Act

And

**In the matter of : Mujaffar Ali @ Ahamed
@ Mozaffar AhammdaPetitioner.**

Mr. Kaushik Choudhuryfor the Petitioner.

Ms. Subhasree Patel
Ms. Debolina Dasfor the State.

Mr. Nirupam Dhalifor the Defacto complainant.

Dictated by Arijit Banerjee, J.

1. The petitioner says that he is in custody for two years four months. Only 2 out of 14 charge sheet named witnesses have been examined. Charge was framed on August 22, 2022. After April 29, 2024, there has been no examination of witness. On the ground of delay, the petitioner prays for bail.
2. Opposing the prayer for bail, learned State Counsel draws our attention to the statement of the victim girl (about eight years old) recorded under Section 164 Cr.P.C. as also the deposition of the victim girl recorded before the learned Trial Court. The girl's deposition and the statement under Section 164 Cr.P.C. corroborate

each other. She has been consistent in her stand. The medical report says that sexual assault cannot be ruled out.

3. In view of the fact that the petitioner has committed penetrative sexual assault on the victim girl, we are not inclined to allow his prayer for bail, at this stage.
4. The prayer for bail is, accordingly, rejected.
5. CRM (DB) 2532 of 2024 is dismissed.
6. However, we cannot lose sight of the fact that every citizen has a fundamental right to personal liberty and speedy trial. The petitioner is in custody for about two years four months. We direct the learned Trial Court to expedite the trial to the fullest extent possible and conclude the same on an early date and definitely within one year from the date of communication of this order.
7. The parties shall communicate this order to the learned Trial Court.
8. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Arijit Banerjee, J.)

(Prasenjit Biswas, J.)

